

Commission on Marine Resources

COMMISSION ON MARINE RESOURCES

COMMISSION MEETING

Tuesday, September 19, 2017
9:00 a.m.
Bolton Building Auditorium
1141 Bayview Avenue
Biloxi, Mississippi 39530

Commission Members:

- Steve Bosarge, Chairman
Ron Harmon, Vice Chairman
Richard Gollott
Mark Havard
Jolynne Trapani

Also Present:

- Jamie M. Miller, Executive Director DMR
Sandy Chestnut, Esq., Assistant Attorney General

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1 COMMISSIONER BOSARGE: Good morning everyone. I
2 would like to call this meeting to order.
3 I want to thank everybody for taking time out of
4 your day to come help us out, as we try to make some
5 decisions here. Welcome to the September meeting.
6 We will start it out by saying the Pledge of
7 Allegiance. I would like Mark Havard to lead us.
8 (whereupon, the Pledge of Allegiance was
9 recited.)
10 COMMISSIONER BOSARGE: Next on the agenda will
11 be approval of the minutes for the July 18th meeting.
12 Do I have a motion, or do we need to make any
13 changes to the minutes?
14 COMMISSIONER HARMON: Mr. Chairman, I make a
15 motion that we approve the minutes for the July meeting.
16 COMMISSIONER BOSARGE: Do we have a second?
17 COMMISSIONER GOLLOTT: I'll second it.
18 COMMISSIONER BOSARGE: All in favor say aye.
19 (All in favor.)
20 COMMISSIONER BOSARGE: Opposed?
21 (None opposed.)
22 COMMISSIONER BOSARGE: Motion carries.
23 We also need a motion for approval of the
24 minutes for the August 15th meeting.
25 COMMISSIONER GOLLOTT: So moved, Mr. Chairman.

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1 COMMISSIONER BOSARGE: We have a motion.
2 Do we have a second?
3 COMMISSIONER HARMON: So seconded, Mr. Chairman.
4 COMMISSIONER BOSARGE: All in favor say aye.
5 (All in favor.)
6 COMMISSIONER BOSARGE: Opposed?
7 (None opposed.)
8 COMMISSIONER BOSARGE: Motion carries.
9 Are there any changes to the agenda?
10 COMMISSIONER HAVARD: I would like to move Item
11 F3 to K2.
12 COMMISSIONER BOSARGE: We have a motion.
13 Do we have a second?
14 COMMISSIONER HARMON: So seconded, Mr. Chairman.
15 JOE JEWELL: Excuse me.
16 Is that Item F2?
17 COMMISSIONER BOSARGE: F3 to K2.
18 JOE JEWELL: Thank you.
19 COMMISSIONER BOSARGE: We have a motion and a
20 second.
21 All those in favor say aye.
22 (All in favor.)
23 COMMISSIONER BOSARGE: Opposed?
24 (None opposed.)
25 COMMISSIONER BOSARGE: Motion carries.

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1 Executive Director's report.
2 JAMIE MILLER: Chairman, I don't have a report,
3 other than to ask the Commission to consider our October
4 meeting. We normally move to Hancock County and Jackson
5 County this time of year, and I ask that someone on the
6 Commission make a motion to move to Hancock County for the
7 October Commission meeting and that we move the meeting
8 time to 10:00 a.m. It will be at the administrative
9 office building on Highway 90.
10 COMMISSIONER BOSARGE: That works for me.
11 Do we have a motion for that?
12 COMMISSIONER TRAPANI: I'll make a motion to
13 move the October meeting to Hancock County.
14 COMMISSIONER GOLLOTT: I'll second it.
15 COMMISSIONER BOSARGE: We have a motion and a
16 second.
17 All those in favor say aye.
18 (All in favor.)
19 COMMISSIONER BOSARGE: Opposed?
20 (None opposed.)
21 COMMISSIONER BOSARGE: Motion carries.
22 That will be 10:00 a.m. in Hancock County.
23 Office of Marine Patrol, Chief Davis.
24 KEITH DAVIS: Good morning Mr. Chairman and
25 Commissioners.

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I am going to be very brief because we have an extended agenda today. Last month was a busy month for the Office of Marine Patrol.

Just going through some of the citations that should be highlighted, you will notice under Recreational Fishing Violations, it looks like our numbers were up a little bit during the month of August. Twenty-five citations for no fishing license.

If you remember, I told you earlier that we were allowing individuals who did not possess a fishing license to come in and get their fishing license.

I don't have the numbers on those, but I can tell you that that program has worked. We see a lot of individuals coming in and getting the proper fishing license.

The other thing I would like to point out is the possession of undersized Spotted Seatrout.

Also in the last meeting, I told you that we were getting reports of people keeping undersized Spotted Seatrout, speckled trout at the Gulfport pier. Our night shift has done some strategic patrols in that area and we wrote ten citations last month for undersized Spotted Seatrout and six citations for Red Drum, some others for possession of undersized Red Snapper, undersized Gray Snapper and some over-the-limit citations, as well.

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Before I sit down, I do want to go through our Red Snapper numbers for you on enforcement.

Chairman Bosarge, you asked us to provide you with a little bit more information, in terms of enforcement on Red Snapper.

This is a compilation of all of the numbers for that period of Red Snapper season this year. According to our Fisheries Bureau, twelve hundred and sixty trips were registered on Tails n' Scales. This is just a breakdown, and I can provide this to you, if you want a copy of it (indicating slide).

That tells you that citations were issued during that time period, but, ironically, we found that most people were compliant.

This graph shows you a little bit better. Honestly, it's not working, but, in the large blue area, that is your boaters that we found to be compliant which translates to eighty-two percent of the people that we checked were compliant, during those days.

This graph kind of breaks down what we actually wrote citations for. As you can see, undersized Red Snapper was the main category of what we were finding, as well as failure to report.

Just another graph of the compliance rate. You can see, during the month of August, that was our largest

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month of individuals not being compliant.

Of course, I can provide all of those numbers for you, if you would like more information on that.

COMMISSIONER BOSARGE: That's great. I appreciate it.

Whether we move towards State management, or not, your job is a big portion of that, getting the information we need.

KEITH DAVIS: Absolutely.

COMMISSIONER BOSARGE: I appreciate it. Thank you.

COMMISSIONER HAVARD: Keith, is there a way that we can get it out to the fishermen next year so they know where they can sign on to Tails n' Scales?

KEITH DAVIS: Yes, sir. The Fisheries Bureau and Marine Patrol work very diligently and try to get that information out by posting it at the local boat ramps. I think that there is a component with social media, using our public relations office, that we can certainly make an effort to try to get those.

What we found was it was mostly fishermen from the northern part of the state coming down that were not compliant. I think we can do something to get information out to those fishermen.

COMMISSIONER HAVARD: Thank you.

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COMMISSIONER BOSARGE: Thank you, Chief.

KEITH DAVIS: Thank you.

COMMISSIONER BOSARGE: I would like to recognize State Senator Mike Seymour and, also, County Supervisor Randy Bosarge. We appreciate you coming. Please stand up.

MIKE SEYMOUR: Thank you.

RANDY BOSARGE: Thank you.

COMMISSIONER BOSARGE: Now, we have Mr. Joe Jewell with Marine Fisheries.

JOE JEWELL: Thank you, Mr. Chairman.

I would like to welcome our elected officials. It is always welcome for them to take time out of their busy day to visit us at our Commission meeting.

For efficiency sake, I would like to introduce our first two items and let them come conjoined together to give their presentations.

Our first presentation will be by Mr. Matt Hill. He is going to give you our annual update to the Spotted Seatrout stock assessment, and, then, second will be Mr. Erik Broussard who will present the 2017-2018 Oyster season update.

Mr. Matt Hill.

MATT HILL: Thank you, Joe.

Good morning Commissioners, Director Miller, Ms.

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1 Chestnut.

2 I would like to say I will be brief, but I'm not  
3 sure the Commission is going to give me that luxury on  
4 this particular one, so we will just get right into it.

5 This is our annual Spotted Seatrout update that  
6 we have been tasked by the CMR to provide on our Spotted  
7 Seatrout stock in relation to the target of a percent, SPR  
8 of twenty percent set by the Commission.

9 This particular update was completed in June of  
10 2017, by our Mississippi Stock Assessment Panel. The  
11 panel is comprised of staff from MDMR and the Gulf Coast  
12 Research Lab. We completed an internal review at the MDMR  
13 in July of 2017, and a final analysis and edits were  
14 completed in August of this year.

15 I would like to point out that the terminal year  
16 of this update is 2016.

17 I know we know a lot about this, but this is  
18 just a brief management history of Spotted Seatrout in  
19 Mississippi. There have been many changes, with the  
20 latest change beginning January 16<sup>th</sup> of this year with the  
21 fifteen inch minimum size for the recreational sector.

22 Analysis provided in this update does not  
23 incorporate potential affects of this size change because,  
24 as I stated earlier, the terminal year of this update is  
25 2016. The numbers that you will see that are presented

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1 have not been influenced by the size change. That will  
2 occur on the next update.

3 Here is a brief summary of the Gulf and South  
4 Atlantic Management. All Gulf states, Georgia, North  
5 Carolina and South Carolina have seen dramatic decreases  
6 in Catch Per Unit Effort over the last five years.

7 Seven of these eight states have either raised  
8 the minimum size, or lowered their bag limits, since 2008.

9 All states, except Louisiana, are at a fourteen  
10 inch minimum size limit, or greater, and no states  
11 currently have any type of undersized allowances.

12 A little bit about the model, and I am  
13 definitely not a model expert, but this is a dynamic model  
14 that is constantly changing, as parameters are more  
15 precisely defined and additional data is added on an  
16 annual basis. We are able to make projections for future  
17 years, but these may change, once the actual data is put  
18 into the model.

19 I do want you to keep in mind that we only have  
20 ten full years of actual data in this model, right now.  
21 This is a very data-hungry model. When you start adding  
22 terminal years -- this year we actually added two years to  
23 it -- it is very sensitive and it is not quite as stable  
24 as we would like to see it. However, as we continue to  
25 have the ability to add data to it in the next five to

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1 eight years, it will stabilize some of the more recent  
2 years a lot more than what we are seeing.

3 After internal data review, two strong year  
4 classes were identified in 2015 and 2016. I would like to  
5 point out the 2016 year class has been identified as a  
6 phenomenal year class. It is one of the best we have ever  
7 seen. These year classes are both currently recruiting  
8 into the fishery.

9 However, when you see this year class of 2016  
10 and we start looking at some of the numbers, the model was  
11 somewhat at the mercy that it was such a good year class  
12 that it overpowered some of the other years.

13 Some of the conclusions. When we try to form  
14 these management decisions, using this particular model,  
15 this model is presently accepted on a peer review level  
16 and models are identified as best available science.

17 This particular update was completed using the  
18 Age Structured Assessment Program, or ASAP, from the NOAA  
19 Fisheries Toolbox which has been peer reviewed and  
20 accepted.

21 Now, this is getting down to what everybody  
22 wants to see. I know it is a little tough to see the  
23 writing. As you can see, in 2016, the first chart on the  
24 left is our instantaneous fishing mortality. 2016 had the  
25 highest fishing mortality of any year we have ever seen,

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1 and it looks like it is continuing on this particular  
2 projection.

3 what we do see in a positive light is on the  
4 right side, the percent SPR. If you remember, from the  
5 base model, when we did the projections, the 2016 percent  
6 SPR came out to be approximately a percent SPR of eight.  
7 This shows, when we added the actual data and we added the  
8 new indexes of abundance, it raised it slightly to eleven.

9 However, I do want to caution that this year  
10 class was such a strong year class that it did have an  
11 impact on that particular number.

12 what we do see here and what we have circled in  
13 red is the percent SPR that the Commission has chosen as a  
14 target which is twenty.

15 As you can see, the biomass of the mature female  
16 portion of the population, after a five-year change, once  
17 the regulation goes into effect, we will have a twenty-one  
18 percent increase on this particular biomass, and, also,  
19 the biomass available for harvest, if we continue on this  
20 trajectory, will increase by thirty-four point eight  
21 percent over the same five-year period.

22 Some people ask how do we do this. These  
23 projections are based on forecasting catch and effort,  
24 using current trends in the fishery. We do know that the  
25 effort is going to increase and we do know that some of

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1 the parameters will change, but we based these projections  
2 using the current trends in the fishery. That's all we  
3 currently have.

4 what we are trying to show here is instead of  
5 using the single point, continuously using the single  
6 points anymore, we would like to begin for the Commission  
7 to start considering using five-year trends and Dr. Mickle  
8 and I have had some discussions about maybe using the  
9 three-year trend as a starter.

10 Although we are not in quite as big a hole as  
11 what we initially stated in the base model, what you can  
12 see here is all these trends are still in a negative  
13 pattern.

14 For instance, the discard ratio, these are some  
15 of the inputs and you can see. If you change them from  
16 ten percent to twenty percent, it has very little affect  
17 on the model. If you remove certain indices, it has very  
18 little affect on the model.

19 This shows it is a very robust model. However,  
20 it is a data-hungry model and we do realize that it needs  
21 much more data to stabilize the model.

22 The goal is not only to meet the target of a  
23 percent SPR of twenty, but to begin to consistently see  
24 positive short- and long-term trends in biomass yield and  
25 percent SPR.

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1 Just because we get one year with an SPR over  
2 twenty, that should not be our goal. Our goal should be  
3 to see this as a consistent trend.

4 These are scenarios. The twenty percent SPR  
5 which is the current target the Commission has chosen is  
6 the red line. The sixteen percent SPR is the mean SPR  
7 from the Spotted Seatrout update. That is the broken  
8 dotted line. The fourteen percent SPR, the mean value  
9 projected tend for 2017, that's the broken dash line. The  
10 ten percent SPR which was our previous projection is the  
11 bottom line there.

12 The key thing of this slide for your biomass is  
13 the twenty percent SPR is the only scenario that shows a  
14 continuous and consistent increasing trend in biomass over  
15 a period of time.

16 I would like to point out that the twenty  
17 percent and the sixteen percent SPR value both show an  
18 increase in biomass over five years. However, once we get  
19 beyond that, the twenty percent is the only one that shows  
20 the continued and consistent increase.

21 Now, we talk about the yield. That's what the  
22 fishery can actually yield to both sectors of the fishery.

23 These are the same scenarios, the twenty percent  
24 SPR, the sixteen percent SPR, the fourteen percent SPR and  
25 the ten percent SPR. Again, you can see the red line is

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1 the twenty percent, and it is the only scenario that shows  
2 a continuous and consistent increase in yield over five  
3 years.

4 Again, I would like to point out that the twenty  
5 percent and sixteen percent SPR value shows an increase in  
6 yield over a five-year period, but, as you can see, the  
7 sixteen percent begins to flatten out as the twenty  
8 percent continues a continuous and consistent increase.

9 In conclusion, I would like to say that I do  
10 believe the Commission did make the right decision in  
11 choosing the SPR target and we are seeing positive signs  
12 in the fishery not necessarily due to the regulation  
13 because, as I said, the regulation has not had time to  
14 take affect into this update.

15 To be frank, we just got lucky. We had very  
16 strong year classes two years in a row, and that is  
17 carrying our fishery right now. We cannot continue to  
18 depend on that. However, what we can hope is that the  
19 fifteen inch minimum size will continue to bolster the  
20 fishery and continue to raise the SPR in the direction  
21 that we want to see it on a continuous basis.

22 With that, I will take any questions.

23 COMMISSIONER BOSARGE: I have a couple of  
24 curious questions.

25 Looking at where we are right now and looking at

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1 all of the scenarios that you presented, including the  
2 twenty percent SPR and sixteen percent SPR, and looking at  
3 the models, are you pretty confident we are going to get  
4 to the twenty percent SPR?

5 Go back to the harvest where we actually look at  
6 the harvest.

7 MATT HILL: This (indicating slide)?

8 COMMISSIONER BOSARGE: Yes.

9 When I do the math and I look at, for instance,  
10 what we can harvest, biomass available for harvest, I  
11 think we are at about a fifteen percent SPR, right now?

12 MATT HILL: If you want to do the average, the  
13 five-year average which is what I consider is the best way  
14 to look at this trend, it's at sixteen percent currently.

15 COMMISSIONER BOSARGE: You've got it in metric  
16 tons?

17 MATT HILL: Yes.

18 COMMISSIONER BOSARGE: I think about a fifteen  
19 percent SPR is about five hundred and seventy-eight  
20 thousand pounds we can harvest?

21 MATT HILL: That is correct.

22 COMMISSIONER BOSARGE: what was our harvest this  
23 past year?

24 MATT HILL: It was close to a million. A  
25 million-and-a-half pounds.

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1 COMMISSIONER BOSARGE: I can't understand how we  
2 are going to get there, if we are harvesting a million-  
3 and-a-half pounds and we don't need to harvest but five  
4 hundred and seventy-eight thousand pounds.

5 MATT HILL: As Dr. Mickle pointed out very well  
6 last year, the goal that we are going to have to strive to  
7 reach is to drastically lower the fishing mortality for us  
8 to consistently have a percent SPR of twenty and not just  
9 for one year, for several years.

10 However, these numbers and these projections are  
11 based on harvest levels that are being caught still at the  
12 thirteen inch minimum size limit. The regulation did not  
13 take place until this year. As I said, the terminal year  
14 was 2016.

15 I believe after this year and definitely after  
16 next year, if we get two years of data in, what that  
17 fifteen inch minimum size limit will do is it has the  
18 possibility of turning an average year class into a  
19 phenomenal year class and, if we can continue to do that  
20 on a consistent basis, I do believe that the fifteen inch  
21 regulation will put us at the twenty percent SPR in time.

22 What that time is, I would like to say within  
23 five years. I think that is being quite optimistic, but I  
24 think it is something that can happen, when you begin to  
25 see the percent increases that we are seeing and that is

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1 still based on the thirteen inch minimum size.

2 COMMISSIONER BOSARGE: If I understand  
3 correctly, once we get to the twenty percent, we will be  
4 able to harvest somewhere between two hundred and two  
5 hundred and seventy-three metric tons?

6 MATT HILL: That is correct, if the biomass  
7 doesn't change, but, as the biomass increases, the biomass  
8 available for harvest, or the yield, will continue to  
9 increase.

10 That is the discussion that we have had, but the  
11 model has still not stabilized yet in the terminal years,  
12 and I do believe, after the fifteen inch minimum size has  
13 a chance to take hold, that we will see a drastic increase  
14 in the biomass portion of the population which the model  
15 will then, in turn, increase the yield portion of the  
16 model.

17 COMMISSIONER BOSARGE: I just want to be sure  
18 that for most of the general public they understand that  
19 the harvest level we are at, now, is not sustainable.

20 MATT HILL: That's correct, it is not.

21 COMMISSIONER BOSARGE: Those are all of the  
22 questions I'm got, Matt. Thank you.

23 MATT HILL: That wasn't too bad.

24 Any other questions?

25 COMMISSIONER BOSARGE: Well, we have some that

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1 would like to make public on this issue.

2 The first one will be Mr. F. J. Eicke.

3 F. J. EICKE: That's okay. No problem.

4 COMMISSIONER BOSARGE: Thank you, Mr. Eicke.

5 That's all we have on that.

6 Mr. Erik Broussard.

7 ERIK BROUSSARD: Good morning Commissioners,  
8 Director Miller, Ms. Chestnut.

9 This morning I have the 2017 Oyster Reef  
10 Assessment, along with a season recommendation.

11 To pick up where we left off last spring, we had  
12 several discussions about oyster management and the  
13 Commission requested staff come forward with an oyster  
14 management plan. We did, and it consisted of a compliance  
15 section, replenishment/restoration, and an oyster harvest  
16 strategy.

17 What came out of that was the Commission adopted  
18 the Oyster Management plan as a whole. There was not a  
19 current season at the time, so no specific strategies were  
20 adopted. Staff had some recommendations. They are here  
21 highlighted in yellow, and they still stand today  
22 (indicating slide).

23 Number two of the Replenishment/Restoration  
24 portion of oyster management here we have a map of the  
25 northwestern Sound. The piles in red are cultch plant

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1 sites that were completed in the spring, and the piles in  
2 green were completed about two weeks ago.

3 This is going to be Henderson Point and Pass Christian  
4 tonging/dredging and Pass Marianne.

5 Here you have St. Joe, the same thing. Spring  
6 is in red. Green is this fall. We did about a hundred  
7 acres on St. Joe which is a good portion. The total reef  
8 is about four hundred acres. We did get good coverage on  
9 St. Joe.

10 In total, we had about five hundred and fifteen  
11 acres of cultch plant this past year.

12 The reef assessment consists of one-minute  
13 dredge tows and square meter dive sampling.

14 We collect physical parameters, salinity,  
15 oxygen, temperature, and the size frequency of live  
16 oysters which is how many of each size class are present in  
17 the samples, and that is the data we will present to you  
18 in just a second.

19 We also keep up with the predators/competitors  
20 and keep an eye on the disease on the reef.

21 Here is the western Sound and this is kind of an  
22 overview of the 2017 reef assessment of all your sample  
23 sites. We had eighty dredge tows and four hundred and  
24 thirty-four square meter dives.

25 The sample sites in green are representing

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1 samples that had at least one market size oyster in the  
2 sample, and your red sites are going to be a sample that  
3 either had no catch at all, or had spat and seed present.  
4 This just kind of gives an idea of where the resource is,  
5 or is not.

6 we are going to start off with Biloxi Bay. This  
7 is that size frequency data we were talking about. This  
8 Biloxi Bay cultch plant site is in Area V "A", and it  
9 would be available for harvest. It's about a three-and-a-  
10 half year old cultch plan site. It is seventeen acres.

11 This is kind of what you want to see. This is  
12 what a relatively healthy reef would look like, and, so,  
13 we are going to start here.

14 In general, when we have this meeting, we focus  
15 on the sack size, how many market size oysters per square  
16 meter. That would be this year's crop, what is available  
17 right now.

18 We want to kind of change gears and start  
19 looking also at this spat and seed categories to get a  
20 larger picture of kind of where we are headed that can  
21 give you some indication of what kind of recruitment we  
22 are going to have onto the reef.

23 If you see where there is not a lot of spat and  
24 seed coming into the resource, you might want to take a  
25 more conservative approach on how you harvest, if there is

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1 not going to be a lot of recruitment in the next coming  
2 years.

3 we can take these concepts and apply them to the  
4 rest of these charts for the Western Sound.

5 We are going to start off with Pass Christian  
6 Dredging. Zero point three market size oysters per square  
7 meter, and, then, when you look back and you see the spat  
8 and seed size classes at well below one, almost  
9 nonexistent, that causes some concern.

10 Generally, you want to see your spat categories  
11 around twenty to twenty-five spat per square meter, you  
12 want to see seed from fifteen to twenty, and you want to  
13 see that sack size six plus.

14 Something, also, we did in the top right was  
15 look at the four-year average, or give you a trend line to  
16 give kind of a sense of the direction in which the reefs  
17 are headed.

18 Next up we have Pass Christian Tonging. This  
19 reef historically has been self-sufficient. There is  
20 always some amount of resource out there for the  
21 harvesters to go get. It didn't need a whole lot of  
22 cultch planting. It was pretty self-sufficient.

23 With this year's reef assessment, we found zero  
24 sack size oysters per square meter, along with very little  
25 spat and seed.

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1 Now, that zero sack size, that's just what we  
2 found in our samples. Obviously, there are ten thousand  
3 plus acres and we didn't get to every square inch of the  
4 bottom. There could be some resource there, but, if there  
5 is, it is probably not very significant. Again, your  
6 trend is slightly downward, as well.

7 Pass Marianne historically has been the number  
8 one producer, when the years are good. It's our largest  
9 reef and has been the most productive. In this year's  
10 reef assessment, we found zero point one sack size oysters  
11 per square meter, with very little spat and seed. The  
12 trend is downward, as well.

13 Henderson Point has had some amount of available  
14 resource to harvest the last couple of years. We found  
15 point one sack size oysters per square meter. One  
16 difference with this reef is you see a good spat class.

17 Henderson Point was affected by the mortality  
18 last year. There was some resource there and, when it  
19 died, it was unfortunate, but the one good thing about  
20 having a resource there, when it dies, it can catch spat.  
21 This is a good example of that. When you look at the  
22 trend, it is much of the same.

23 COMMISSIONER BOSARGE: Erik, could I point out  
24 one thing?

25 ERIK BROUSSARD: Sure.

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1 COMMISSIONER BOSARGE: As you have presented  
2 this to us, you pointed out, if you look at the column to  
3 the far left, the spat size, in the graph in the right top  
4 corner, it goes to twenty-five. In other words, that was  
5 a lot of spat in that year. Whereas, now, the graph that  
6 you have only goes to eight. Even though it looks like a  
7 lot of spat, your graph is a little short.

8 ERIK BROUSSARD: That would be correct.

9 St. Joe has been the most stable reef over the  
10 last three, or four, years. It's a little deeper water  
11 and it has more current. We have two point five sack size  
12 oysters per square meter with some decent spat and seed  
13 classes.

14 One unfortunate thing about St. Joe is it is the  
15 smallest reef we have for dredging. The fishing pressure  
16 can be isolated and it can take a toll fast.

17 Your trend on St. Joe, again, it looks fairly  
18 stable, but, when the 2014-2015 year drops off and you add  
19 a new year in, it will probably be slightly downward as  
20 well.

21 St. Stanislaus, this is where a fair portion of  
22 the available harvest for tongers came from last year.  
23 Three point eight sack size oysters per square meter, some  
24 decent spat and seed, and you actually have an upward  
25 trend for St. Stanislaus.

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1 Between the Bridges, this is a very small reef,  
2 but we wanted to put it in here so the Commission could  
3 get a sense of the condition in there for the whole  
4 Western Sound. Point six sack size oysters per square  
5 meter, a good seed class and a little bit of spat, but you  
6 can see, historically, the reef is capable of producing  
7 more.

8 Here is just an overview of everything we just  
9 went over, with the addition of how many samples were on  
10 each reef which is in the end category. Below that, you  
11 can see a percentage, and, then, that percentage  
12 represents the total harvestable resource in the Western  
13 Sound.

14 You can see St. Joe at fifty-four percent and  
15 St. Stanislaus at thirteen percent. Basically, you have  
16 seventy percent of the allowable harvestable resource on  
17 your two smallest reefs. That can raise some caution on  
18 the side of the resource managers because, again, you can  
19 have isolated fishing pressure and it can create some  
20 damage.

21 License sales are kind of down this year. I  
22 think most people are aware of the condition of the reefs  
23 and they are probably waiting to see what happens here  
24 today.

25 Here is kind of a new approach for us. The

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1 black bars are the reef assessments -- this is the last  
2 ten years -- and, then, the white bars are representing  
3 what the actual harvest is, with the black dotted line  
4 being the average reef assessment prediction and the green  
5 being the average harvest.

6 If you look at your black line, you can see on  
7 average we predicted about four hundred thousand sacks in  
8 the Western Sound, and we harvested about two hundred  
9 thousand sacks; about fifty percent.

10 When you get into these years where we are down  
11 to fifty, sixty, seventy thousand sacks, we have to come  
12 up with some ideas of how we are going to get it back and  
13 how we are going to rebuild it, not just sustain. We are  
14 beyond sustainable harvest. We need some rebuilding  
15 efforts going on here.

16 You can see, in 2014-2015, 2015-2016 and 2016-  
17 2017, I have the days.

18 2015-2016, we were open for thirty-four days.  
19 We harvested about forty thousand sacks.

20 2016-2017, we were open for eighty-one days,  
21 harvesting the same amount, about forty thousand sacks.  
22 It took us twice as long to harvest the same amount of  
23 resource.

24 When you look at 2017-2018, that is going to be  
25 the lowest reef assessment on record for the State of

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1 Mississippi. Last year was the previous low, and, then,  
2 this year holds the new low.

3 Here we have just a visual aid, just to kind of  
4 put a name with the face. This is Area V "A", that  
5 seventeen acre cultch plant site that we started with, and  
6 the reef assessment predicts there is a little over  
7 sixteen hundred sacks available, and that is just on this  
8 seventeen acre site.

9 Same thing for the Western Sound. We start with  
10 St. Joe, a little over seventeen thousand sacks. St.  
11 Stanislaus, a little over four thousand sacks. Henderson  
12 Point at around two thousand sacks. Pass Marianne at four  
13 thousand sacks. Pass Christian at around thirty-five  
14 hundred sacks.

15 You can see in these approved areas, no catch.  
16 Telegraph and Pelican have been insignificant for several  
17 years, now.

18 Here is the 2017 Mississippi Oyster Abundance  
19 Estimate. Your first column is the reef. Your next  
20 column the estimated sack total. That is the total amount  
21 of sacks that the reef assessment predicted.

22 Since this was the lowest reef assessment on  
23 record, we wanted to see what the change was from last  
24 year, so we put this percent change from 2016 and overall  
25 it looks like about a twenty percent decline.

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1 If the Commission chose to go with a percent, we  
2 have thirty percent up here. This is what it would look  
3 like, this column here, what percent would come off of  
4 each reef.

5 If the Commission chose to go with a percent by  
6 area, one thing that would be different this year than  
7 last year would be that that would prevent all of the  
8 harvest coming from one reef, or one area. The reefs  
9 would systematically close down, once that thirty percent  
10 was reached on each reef.

11 One other thing to point out is this is not  
12 really just a Mississippi problem. Louisiana has recorded  
13 its lowest reef assessment, as well, this year, and I  
14 think it is pretty much widespread across the Gulf.

15 Season Area Rules and Regulations for the  
16 Commission to consider when making motions:

17 We would ask to keep approved areas closed, due  
18 to the lack of resource. That would help us with some of  
19 the staffing on the check stations.

20 Close areas within five hundred feet of  
21 artificial reef sites, except the Waveland Reef which was  
22 a historic reef.

23 Harvesters launching their vessel at a launch  
24 site remote from a designated oyster check station may,  
25 upon returning from harvesting and prior to unloading any

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1 oysters, trailer their vessel on land and travel along the  
2 most direct route to their designated oyster check station  
3 for check-out. Once the vessel has been checked out and  
4 the sacks of oysters are properly tagged, the sacks of  
5 oysters may then be unloaded from the vessel.

6 A scenario for this is the St. Stanislaus Reef  
7 for the tongers. It is quite a difficult run in the  
8 smaller skiffs, and that would allow them to check into  
9 the check station, and, then, trailer their boat over to a  
10 launch site that is closer to the reef, harvest their  
11 oysters, and, then, go back to check out.

12 Staff recommendation is to open Biloxi Bay Area  
13 V "A" on October 2<sup>nd</sup> for tonging, with a thirty percent  
14 quota, and close Biloxi Bay once the thirty percent quota  
15 is reached.

16 The reason for this October 2<sup>nd</sup> opening is, as  
17 you are aware, we just reduced the management plan  
18 criteria to half an inch of rainfall for this area.  
19 October is one of the drier months. If we were going to  
20 harvest out of this area, ideally, October would be the  
21 month.

22 Open the conditionally approved areas in the  
23 Western Sound on November 1<sup>st</sup> for harvest, with a thirty  
24 percent quota by area, and, then, close those areas once  
25 the thirty percent quota is reached.

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1 Adopt those season rules and regulations.

2 COMMISSIONER GOLLOTT: Mr. Broussard.

3 ERIK BROUSSARD: Yes, sir.

4 COMMISSIONER GOLLOTT: According to some records  
5 I'm looking at here, the Western Sound harvested five  
6 hundred and fifty sacks a day.

7 Could the staff go along with thirty-three  
8 percent which would give them a little bit better than ten  
9 thousand sacks in harvest by area?

10 Like you said, once an area harvests thirty-  
11 three percent of the oysters, you could close it down.

12 The Biloxi Bay, we can live with the thirty-  
13 three percent, if we can do relaying out of Pascagoula to  
14 enhance that area and build oyster reefs and allow  
15 fishermen to harvest oysters in the Biloxi Bay this  
16 season.

17 ERIK BROUSSARD: Sure. I mean, this is just a  
18 recommendation. The Commission could make a motion  
19 adopting a percentage, or any strategy, that they so  
20 choose.

21 COMMISSIONER GOLLOTT: How many days would that  
22 allow them to fish -- I don't have a calculator in front  
23 of me -- and do we need to reduce the sack limit to make  
24 it last a little bit longer, like, twenty sacks per dredge  
25 boat and fifteen sacks per tonger?

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1 what is your opinion on that?

2 ERIK BROUSSARD: Last year, I think the sack  
3 limit was twenty-five for dredging and fifteen for  
4 tonging.

5 I hate to really comment on the economics of it,  
6 but, by adopting a percentage, that allows the resource  
7 some cover.

8 As far as bag limits go, we are fairly open to  
9 whatever the Commission chooses on that. We are more  
10 concerned with a percentage.

11 COMMISSIONER GOLLOTT: I think we should wait  
12 until, say, November the 13<sup>th</sup>, right before Thanksgiving to  
13 open it so maybe we can get into the Christmas area and  
14 help the fishermen through the tough Christmas season.

15 Do we have any more Commissioners who want to  
16 say anything?

17 COMMISSIONER HAVARD: I've got some questions  
18 about this.

19 From our stock assessment for 2016-2017, we are  
20 down sixty-one percent, and we are wanting to go harvest  
21 an additional thirty percent off of that.

22 If we do that, where is that going to leave us  
23 next year for our stock?

24 ERIK BROUSSARD: It is a delicate balance. Last  
25 year when we came forward and presented the eighty-six

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1 thousand sacks in our reef assessment, we did notify the  
2 Commission there was a mortality event occurring, and that  
3 did reduce that number down.

4 The thirty percent harvest can apply in a bad  
5 year, or even in the good years.

6 Let's look at it here. In 2008-2009, we were  
7 predicting almost a million sacks and would say thirty  
8 percent would be three hundred thousand. It's a delicate  
9 balance for us, as resource managers, to look at what is  
10 best for the resource, but, also, have some consideration  
11 for the fishermen and the industry.

12 Fifty percent is what we have been at over time.  
13 That is probably a little too much. Forty percent might  
14 be sustainable. Thirty percent, hopefully, is getting us  
15 into that rebuild mode. That's kind of where that is  
16 coming from.

17 When you look at those size frequency graphs, to  
18 get more to the root of the question of where does it  
19 leave us, next year doesn't look to be much different, as  
20 well. It is just trying to find a balance for all of  
21 that. It doesn't look good for the next year, or two.

22 COMMISSIONER HAVARD: Based off of this graph,  
23 it's not close to where it was five years ago. It has  
24 drastically dropped, and we are going to take more off.

25 I understand we are basing our decisions based

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1 off of harvesting and not what is best for the resource.  
2 when it drops this low, what is concerning to me  
3 is, is there enough resource out there to provide enough  
4 spat to regrow our resource.

5 Is there, in your opinion?

6 ERIK BROUSSARD: That's a good question that we  
7 go around with. Is it a lack of spat, or a lack of  
8 substraight, and it is a combination of several things.

9 we have cultch planted over five hundred acres  
10 this year and, hopefully, we will have some success with  
11 that and really start getting some substraight back on the  
12 reefs and see this upward turn.

13 COMMISSIONER BOSARGE: I'm listening to Mark's  
14 comments, and I know I've heard you say it before, that a  
15 certain amount of dredging is good for the reef, in that  
16 it busts things up, moves things around and actually  
17 benefits for a better cultch plant.

18 Is that correct?

19 ERIK BROUSSARD: Cultivating has been proven to  
20 have some added benefits to the reef. It can expose new  
21 material. When they are out harvesting, there is a theory  
22 that you can expose material and clean and bust up muscles  
23 and do different things through harvesting, or pulling the  
24 bagless dredges.

25 we are actively out there today cultivating and

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1 percentage they are recommending and don't up it to try to  
2 figure out how to make it better for the fishermen.

3 Now, I don't act like I'm heartless toward the  
4 fishermen, but let's get the oysters back, and, then, we  
5 can have maybe a whole bunch more fishermen.

6 I'm not against having people fish a resource  
7 that is abundant, but this doesn't look like an abundant  
8 resource.

9 My second thing is I'm going to say again I do  
10 not like stripping these inshore reefs. If you have  
11 already got a problem -- I'm not under the impression that  
12 these inshore reefs are just loaded with oysters because  
13 they are not normally being oystered. It doesn't sound  
14 like any of our reefs are in good shape.

15 what are we going to do?

16 we have already got clearly depleted commercial  
17 reefs. I can state that generally speaking from everyone  
18 I know that looks at the inshore reefs, they are not  
19 exactly in great shape. We are going to take the oysters  
20 off the inshore reefs which provide fishing and  
21 opportunities for an awful lot of people and we are going  
22 to strip those and go get them harvested.

23 I wish you would stay away from that. I know  
24 that you are far below your target. I understand the  
25 target is a hundred thousand sacks. My impression is, if

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1 turning and trying to expose new material ahead of the  
2 fall spat set. We are trying to break up some of these  
3 shells.

4 COMMISSIONER GOLLOTT: I have had some oyster  
5 biologists tell me that two oysters, under the right  
6 circumstance, can repopulate the whole western reef, half  
7 a dozen oysters. Nobody has ever proven it one way, or  
8 the other, how many oysters it is going to take to  
9 repopulate the reef.

10 If no one else has a motion --

11 COMMISSIONER BOSARGE: (Interposing) We've got  
12 some public comments from people who would like to speak  
13 on the issue, before we actually make a motion.

14 Mr. Steve Shepard.

15 STEVE SHEPARD: Thank you. I really don't have  
16 much to say. That is a pretty shocking report.

17 I'm with the Sierra Club. My concern is the  
18 environment, and part of my concern with the environment  
19 is we want reefs out there. First, we want reefs. If  
20 there are lots of reefs, then, people can go oyster, but,  
21 if we are constantly trying to figure out, like, let's up  
22 the percentage they are recommending, I'm not even sure  
23 their percentage is as generous as it should be to the  
24 oyster.

25 Let me urge you to, at least, stick with the

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1 I'm reading the graphs correctly, there are sixty-eight  
2 thousand potential sacks that are supposed to be pulled  
3 off of inshore reefs, starting with Pascagoula.

4 I have told people it sounds to me like if  
5 Pascagoula doesn't come up with sixty-eight thousand  
6 sacks, you will turn to Graveline, you will turn to Grand  
7 Bay NERR, you will turn to the Biloxi fishing reefs, you  
8 will turn to anywhere there is an oyster.

9 Even if you got away with it this year, when is  
10 it going to finally come home that the fishermen aren't  
11 going to have a job?

12 Maybe not this year. Maybe they will through  
13 this year, but what about next year and the year after  
14 that?

15 Can't we look forward and say we've got to  
16 tighten the belt, now?

17 I urge you to, at least, follow the  
18 recommendation that has been given here and also refrain  
19 from pulling those oysters off the Pascagoula Reef. Thank  
20 you.

21 COMMISSIONER GOLLOTT: Mr. Shepard, with all due  
22 respect, State law says we will move those oysters out of  
23 Pascagoula and put them on thin reefs.

24 I don't know where you come up with these sixty-  
25 eight thousand sacks. You don't know much about oysters,

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1 sir, and we're not stripping any --

2 STEVE SHEPARD: (Interposing) Okay. Tell me  
3 this.

4 If Pascagoula doesn't provide enough, are you  
5 going to go to other reefs, or is that the only reef you  
6 are going to pick on?

7 COMMISSIONER GOLLOTT: That is the only reef  
8 that I'm interested in moving anything off of, right now.

9 STEVE SHEPARD: Well, that makes me feel better.  
10 I'll say that because I'm under the impression that there  
11 is a goal here.

12 There isn't a goal of a hundred thousand sacks  
13 this year?

14 COMMISSIONER GOLLOTT: No, sir. I haven't heard  
15 anything about that.

16 STEVE SHEPARD: Thank you.

17 COMMISSIONER BOSARGE: I think that would be an  
18 unrealistic goal.

19 Jeanne Lebow.

20 JEANNE LEBOW: Thank you for the opportunity to  
21 speak. I, too, represent the Sierra Club, and I just want  
22 to state a concern with the entire resource.

23 The Pascagoula Reef is one of the inshore reefs.  
24 I'm delighted to hear that you are not going to strip all  
25 of them, but I would wish that you would tong it rather

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1 than dredge it because of the damage that it does.

2 It's not just oysters because I'm not just  
3 looking at oysters. It is a fishing reef, and we do have  
4 some fish that might enjoy it. Thank you very much.

5 COMMISSIONER BOSARGE: Thank you, Ms. Lebow.  
6 Mr. Kevin Briggs.

7 KEVIN BRIGGS: I know you have a long agenda. I  
8 would rather save my comment for the oyster farming, if it  
9 is possible that you could move my comments.

10 COMMISSIONER BOSARGE: That item was taken off  
11 the agenda -- well, it was actually never put on the  
12 agenda. I think it will be on there next month.

13 KEVIN BRIGGS: Next month?

14 COMMISSIONER BOSARGE: Yes, sir.

15 KEVIN BRIGGS: Well, let me just go ahead and  
16 make a comment. I really am here to find out the  
17 information about it because everything I have read about  
18 it, I don't see what the design is for it, and I'm  
19 wondering about the intensity of the aquaculture.

20 Is this a reef, or is this something more  
21 intensive than a reef?

22 COMMISSIONER BOSARGE: This is actually farming  
23 oysters. It would be less intense than a reef.

24 KEVIN BRIGGS: Less intensive than reefs?

25 COMMISSIONER BOSARGE: Mr. Joe Jewell could

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1 answer your question.

2 JOE JEWELL: We can talk about it after the  
3 meeting.

4 KEVIN BRIGGS: Thank you.

5 COMMISSIONER BOSARGE: We actually had one more  
6 public comment. Of course, he's not here, but the  
7 Governor weighed in on this issue and, basically, he wants  
8 to encourage the Commission on Marine Resources to adopt  
9 the agency's recommendation for a sustainable oyster  
10 harvest of thirty percent of the estimated thirty-two  
11 thousand sacks available.

12 I just wanted to let you guys know that we've  
13 got somebody that wants to make sure our oysters make it,  
14 also.

15 We've got the Supervisor from Jackson County,  
16 Randy Bosarge, that would like to make some comments.

17 RANDY BOSARGE: I know I got here a little late,  
18 but I would like to speak on this.

19 COMMISSIONER BOSARGE: Come on up, Randy. We  
20 will give you three minutes.

21 RANDY BOSARGE: That works for me. You must  
22 have taken lessons from Mr. Harris.

23 Good morning Commissioners and Director Miller.  
24 I appreciate y'all allowing me to speak this morning out  
25 of turn.

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1 On the oysters on the Biloxi Bay part of it, is  
2 that going to include Shearwater Reef?

3 If you are going to be in Biloxi Bay, Shearwater  
4 Reef is in Biloxi Bay.

5 Let's get back to Jackson County oysters here.  
6 I really think that there is nothing wrong with Jackson  
7 County oysters, other than it seems like nobody wants to  
8 go get them.

9 I'll go get them, if you will let me. I'm just  
10 trying to figure out a way to have Jackson County more  
11 involved in the oyster industry along the Gulf Coast like  
12 it used to be. Jackson County used to produce more  
13 oysters than anybody else did, at one time.

14 I don't have a problem with the Pascagoula  
15 inshore reef, as long as you just don't decimate it. I  
16 have a problem with that.

17 I really believe that if those oysters were  
18 stirred up a little bit more, I think we would be able to  
19 go back out there and harvest them ourselves in Jackson  
20 County.

21 I would really like to see the science on that.  
22 I'm not a scientist by any means. I grew up oystering on  
23 those reefs, so I can tell you, and I'm doing the tonging  
24 side because that's what I used to do with my grandfather.

25 I'm just telling you I really believe that if

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1 they were stirred up a little bit -- maybe not as much as  
2 what I've heard in the past -- I really believe that our  
3 oysters can come back.

4 The County over the years has taken the  
5 initiative to pretty much get rid of all septic tanks  
6 along the water's edge. Everything is on a centralized  
7 sewer system that pumps to the north part of the county,  
8 the Seaman Road area. If it doesn't go to Pascagoula, it  
9 goes to Seaman Road.

10 We have no other contaminants that I know of  
11 going in the water, other than maybe some industrial stuff  
12 which I'm working on as we speak.

13 I have been in close contact with some folks  
14 that are doing some testing for me, as we speak. I don't  
15 mean to overstep y'all's authority, but I've got to do  
16 what I've got to do to help get Jackson County oysters  
17 back and us creating that market back like it used to be.

18 I do want to say thank you for considering this.

19 I did leave you a message, Jamie. I don't know  
20 if you got it, but I do appreciate y'all looking at the  
21 oyster farming for that area of Round Island, right there  
22 by the new Round Island. I really think that is going to  
23 be very beneficial.

24 If the Deer Island area doesn't work out, bring  
25 more of it over to Jackson County. I will help you. All

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1 you have to do is call me, ask me and I will do whatever  
2 it takes to have more oysters.

3 Consider the Shearwater Reef, when you open  
4 Biloxi Bay. I would appreciate that.

5 COMMISSIONER GOLLOTT: Mr. Bosarge.

6 RANDY BOSARGE: Yes, sir.

7 COMMISSIONER GOLLOTT: With all due respect, if  
8 you will get with Senator Seymour, he has been doing  
9 research on where the pollution is coming from.

10 RANDY BOSARGE: I didn't know if he wanted to  
11 stay in stealth mode, but Senator Seymour and I have been  
12 working closely on this and a few other members and past  
13 members.

14 COMMISSIONER GOLLOTT: Jackson County really  
15 needs some help over there.

16 RANDY BOSARGE: We've got to have it. I  
17 appreciate y'all. Thank you.

18 COMMISSIONER GOLLOTT: Thank you, Randy.

19 COMMISSIONER TRAPANI: Mr. Chairman, I have a  
20 comment for members of the Sierra Club that spoke.

21 I'm just a little concerned that they are maybe  
22 thinking that we have some kind of goal in mind of the  
23 number that we want to harvest.

24 As for myself -- I think I could probably speak  
25 for all the Commissioners -- that number would be

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1 unrealistic. We have no intention of ever doing that.

2 Relaying oysters from Pascagoula, or wherever it  
3 may be, to get the oysters there so we can have some more  
4 to harvest -- they are sitting there -- we have no  
5 intention of trying to get to some crazy number that is  
6 unrealistic.

7 Also, I have one other question for you, Erik.

8 When we look at this chart right here -- I know  
9 you don't have a crystal ball, and I wish we all did  
10 because we wouldn't be in this situation -- I'm looking at  
11 the year 2017-2018, and it is sad to look at this and see  
12 what we have to look at.

13 With all the cultch plants and y'all have your  
14 plans on trying to bring back these reefs, restore them,  
15 bring them back, do you have any projections that go past  
16 2017-2018 that you could show the Commission maybe, in the  
17 next couple of meetings, or is that something you can't  
18 produce because you don't know?

19 Just so maybe we know we have a plan and we have  
20 some hope for what we are trying to get to.

21 ERIK BROUSSARD: We definitely have a plan.  
22 About as far out as we can speak on it are those spat and  
23 seed classes, and that's not even a guarantee that they  
24 are going to survive two, or three, years.

25 Given that they are very low, the cultch

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1 planting, some of that is included, but the majority of  
2 that cultch planting is not represented in this reef  
3 assessment.

4 During next year's reef assessment, we will have  
5 a good grasp on what the future might look like, depending  
6 on how successful those plants were.

7 COMMISSIONER TRAPANI: Thank you.

8 COMMISSIONER BOSARGE: From what I see, it looks  
9 like we are two to three years down the road from a  
10 manageable type of harvest.

11 Do we have a motion?

12 COMMISSIONER GOLLOTT: I would like to make a  
13 motion that we go with the staff's recommendation, adjust  
14 it to thirty-three percent so we can at least get over ten  
15 thousand sacks, open the season on November the 13<sup>th</sup> so we  
16 can cover the holidays, and, by all means, start relaying  
17 and doing some planting to enhance the Biloxi Bay and let  
18 some of these fishermen harvest the oysters that we relay  
19 out of Pascagoula in October.

20 Let me see if there is anything else.

21 I will make that motion.

22 ERIK BROUSSARD: We will need a daily sack  
23 limit, as well.

24 COMMISSIONER GOLLOTT: Let's drop the dredging  
25 sack limit to twenty and leave the tonging at fifteen.

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1 COMMISSIONER BOSARGE: The staff's  
2 recommendation was thirty percent, and I would like to see  
3 us hold to thirty percent. Three percent is not going to  
4 make, or break, us at this point. I would feel much  
5 better if we stayed with the thirty percent.

6 Is that something you would consider doing?

7 COMMISSIONER GOLLOTT: No. Thirty-one percent.  
8 I just want to get ten thousand sacks.

9 JOE JEWELL: Can I get some clarification on the  
10 motion?

11 COMMISSIONER GOLLOTT: Go ahead.

12 JOE JEWELL: I guess the motion is thirty-one  
13 percent?

14 COMMISSIONER GOLLOTT: Yes. We can leave it at  
15 thirty-one percent. That's fine.

16 What will that give us, Joe? How many sacks?

17 JOE JEWELL: That will put you over ten  
18 thousand. The staff is recommending thirty percent.

19 We have a motion for thirty-one percent, to open  
20 on November the 13<sup>th</sup> which is a Monday, but you also  
21 mentioned to do some relays and cultch planting.

22 Is that part of your motion?

23 COMMISSIONER GOLLOTT: It is, and let's give the  
24 staff the authority to open and close those relayed reefs  
25 in the Biloxi Bay as they see it's necessary.

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1 In other words, what I would like to see happen  
2 is the first of October open Biloxi Bay, start relaying  
3 into a different area from Pascagoula, let that area set  
4 there for two weeks and depurate, and, then, let the staff  
5 open that, as they need to, or maybe have three areas that  
6 we can relay into, and, then, you can open it and let them  
7 harvest the marketable oysters, and leave the other two-  
8 or three-year class there to grow for next year and the  
9 following year so we build the reefs.

10 JOE JEWELL: You want to open Biloxi Bay on...

11 COMMISSIONER GOLLOTT: What did you say,  
12 October?

13 ERIK BROUSSARD: October 2<sup>nd</sup>.

14 COMMISSIONER GOLLOTT: October 2<sup>nd</sup>, but give the  
15 staff the authority to close it.

16 JOE JEWELL: Can I modify your motion just a  
17 little bit?

18 COMMISSIONER GOLLOTT: Sure.

19 JOE JEWELL: Give the Executive Director the  
20 ability to direct the staff and, two, we open and close  
21 according to the model ordinance of the ISSC. Those are  
22 the regulations that Mr. Broussard mentioned. We open and  
23 close on those.

24 Giving the Executive Director the ability and  
25 flexibility to open areas is what I would ask the

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1 modification be.

2 COMMISSIONER GOLLOTT: That would be fine.

3 JOE JEWELL: Okay.

4 COMMISSIONER GOLLOTT: Would you need that kind  
5 of authority on the Western Sound, also?

6 If you are only going to harvest thirty-one  
7 percent of this seventeen thousand sacks coming off of --  
8 what is it, seventeen thousand sacks that is in the St.  
9 Joe channel?

10 JOE JEWELL: Yes, sir.

11 COMMISSIONER GOLLOTT: When you reach thirty-one  
12 percent there, you get to close it, so you will need that  
13 authority, too.

14 Right?

15 JOE JEWELL: Yes, sir. You are giving, in your  
16 motion, the Executive Director that authority, and we will  
17 manage the area by the model ordinance regulation  
18 according to the management criteria, river stage and  
19 rainfall?

20 COMMISSIONER GOLLOTT: Yes, sir.

21 JOE JEWELL: Thank you.

22 COMMISSIONER HAVARD: Commissioner Gollott, can  
23 I get a clarification on the reasoning behind raising it  
24 from thirty percent to, now, thirty-one percent which is  
25 above the staff's recommendation?

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1 COMMISSIONER GOLLOTT: Yes. You're not talking  
2 about that many oysters in a day. It's just the idea of  
3 getting above ten thousand sacks. That's all.

4 COMMISSIONER HAVARD: We are going to take more  
5 oysters from a downward spiraling resource, just because  
6 the numbers look better?

7 COMMISSIONER GOLLOTT: Well, let's put it this  
8 way, Mark. There is no way what we are doing is going to  
9 help us next year. The only thing is if God gives us the  
10 spat set out there to bring the oysters back is this  
11 oyster industry going to recover. You cannot manage your  
12 way to more oysters.

13 COMMISSIONER HAVARD: It's not going to help us,  
14 but it can hurt us.

15 COMMISSIONER GOLLOTT: We have a motion.

16 COMMISSIONER BOSARGE: Excuse me. We need to  
17 look at the motion and make sure everybody is clear.

18 JOE JEWELL: I have the first part of it, if you  
19 would like to type it, will.

20 COMMISSIONER BOSARGE: While we are doing that,  
21 Paul, you had something you wanted to say, Dr. Mickle.

22 PAUL MICKLE: Thank you, Chairman.

23 Just a quick fact. To get ten thousand sacks,  
24 the percentage to reach that will be thirty point four  
25 five percent. Thirty point five percent will get over ten

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1 thousand. Point five percent is what we are arguing over  
2 right now.

3 COMMISSIONER BOSARGE: Thank you.

4 COMMISSIONER TRAPANI: Chairman Gollott, did you  
5 specify when the relay was going to take place?

6 COMMISSIONER GOLLOTT: In October.

7 COMMISSIONER TRAPANI: Okay.

8 COMMISSIONER BOSARGE: October for Biloxi Bay.  
9 Correct?

10 COMMISSIONER GOLLOTT: We've got to do it in  
11 October, before we start getting these winter tides,  
12 because you will never get the Conservationist on the  
13 oyster reefs in Pascagoula, once you start getting the  
14 winter tides.

15 COMMISSIONER BOSARGE: One question I had, and I  
16 think you guys have got the information where we can look  
17 at it. In other words, we haven't said what we are going  
18 to harvest from Pascagoula to move to Biloxi Bay.

19 I would like to go ahead and set that in stone.

20 COMMISSIONER GOLLOTT: Well, the Executive  
21 Director has agreed to go down and assess the reefs with  
22 us next week, and, then, we will get together. We will  
23 include you in it, Steve.

24 COMMISSIONER BOSARGE: Do we have that  
25 information, Joe, on the Pascagoula Reef?

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1 Do you have that where you can present it?

2 JOE JEWELL: Erik does have that, but it would  
3 be a lot more efficient for us, if the Commission made the  
4 motion and made the decision on setting the season, and,  
5 then, the relay.

6 COMMISSIONER BOSARGE: We have a motion.

7 Do we have a second on the motion?

8 COMMISSIONER TRAPANI: I'll second that.

9 COMMISSIONER BOSARGE: Any further discussion?  
(No response.)

10 COMMISSIONER BOSARGE: We have a motion and a  
11 second.

12 All those in favor say aye.

13 (Commissioner Gollott, Commissioner Trapani in  
14 favor.)

15 COMMISSIONER BOSARGE: Opposed?

16 (Commissioner Bosarge, Commissioner Havard  
17 opposed.)

18 JOE JEWELL: Sandy, they modified your motion a  
19 little bit to include Biloxi Bay opens October 2<sup>nd</sup>, but  
20 they modified the motion to direct the staff to relay.  
21 Now, they are going to take up that portion of the motion.

22 COMMISSIONER BOSARGE: Back up just a minute.  
23 Let's do this vote again. I didn't quite get your vote.  
24 which way did you vote, Commissioner Harmon?  
25

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1 COMMISSIONER HARMON: I vote nae.

2 COMMISSIONER BOSARGE: That's three against and  
3 two in favor. The motion fails.

4 SANDY CHESTNUT: This motion failed?

5 COMMISSIONER BOSARGE: Yes, ma'am.

6 COMMISSIONER GOLLOTT: The motion failed.

7 COMMISSIONER BOSARGE: Sandy, did you want to  
8 say something?

9 SANDY CHESTNUT: No.

10 COMMISSIONER BOSARGE: I will make a motion. I  
11 say we accept the staff's recommendations as stated, and  
12 the only thing we change is the opening date of the  
13 Western reefs to what Mr. Gollott wanted which is November  
14 13<sup>th</sup>.

15 COMMISSIONER GOLLOTT: Repeat that, Steve.

16 COMMISSIONER BOSARGE: Basically, accept the  
17 staff's recommendation. The only changes, I believe,  
18 between yours and this one would be thirty percent,  
19 instead of the thirty-one percent and we would change the  
20 opening date for the Western reefs to November 13<sup>th</sup>.

21 JOE JEWELL: Do some cultch planting and  
22 relaying, also?

23 COMMISSIONER BOSARGE: I thought we were going  
24 to do that after this.

25 JOE JEWELL: We will do that separate.

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1 You are recommending accepting the staff's  
2 recommendations, with the modification of opening the  
3 Western Sound on November the 13<sup>th</sup> and opening Biloxi Bay  
4 October the 2<sup>nd</sup>.

5 COMMISSIONER BOSARGE: Correct.  
6 We have a motion.

7 Do we have a second?

8 COMMISSIONER HARMON: Seconded, Mr. Chairman.

9 COMMISSIONER BOSARGE: Any further discussion?  
10 (No response.)

11 COMMISSIONER BOSARGE: All those in favor say  
12 aye.

13 (All in favor.)

14 COMMISSIONER BOSARGE: Opposed?

15 (None opposed.)

16 COMMISSIONER BOSARGE: Motion carries.

17 Let's talk about relaying, now. I guess really  
18 the only question, or concern, I have is we can leave it  
19 to the discretion of the Executive Director, but I would  
20 like to set, if we could, that same thirty percent where  
21 we don't take more than thirty percent from Pascagoula,  
22 and, then, what we do take, we move to Biloxi Bay.

23 We will give you time to think about that.  
24 Commission Gollott has asked for a break. We will take  
25 about a five-minute recess, and, then, we will be back.

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1 JOE JEWELL: Before we break, I want one  
2 clarification for the record.

3 COMMISSIONER BOSARGE: All right.

4 JOE JEWELL: In your motion, we still retain the  
5 sack limit, twenty-fifteen?

6 COMMISSIONER BOSARGE: Twenty sacks for the  
7 dredge boats and fifteen sacks for the tongsers.

8 JOE JEWELL: That's right. That was in the  
9 motion.

10 SANDY CHESTNUT: That was in his motion?

11 JOE JEWELL: In his original motion, yes.

12 SANDY CHESTNUT: That was Gollott's original  
13 motion. It failed. We will have to come back with that.

14 JOE JEWELL: We will have to redo it.

15 (whereupon, a short recess was taken.)

16 COMMISSIONER BOSARGE: Let's get everybody back  
17 to their seats and back to the task at hand.

18 I have been instructed that when we made our  
19 motion, we talked about the sack limits and that was not  
20 part of the staff's recommendations. Sandy has asked that  
21 we make a separate motion.

22 I will make the motion that we set the sack  
23 limits at twenty sacks for the dredge boats and fifteen  
24 sacks for the tongsers.

25 Do we have a second?

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1 COMMISSIONER GOLLOTT: I'll second it.

2 COMMISSIONER BOSARGE: We have a motion and a  
3 second.

4 Any further discussion?

5 (No response.)

6 COMMISSIONER BOSARGE: All those in favor say  
7 aye.

8 (All in favor.)

9 COMMISSIONER BOSARGE: Opposed?

10 (None opposed.)

11 COMMISSIONER BOSARGE: Motion carries.

12 Now, we are going to talk about Pascagoula  
13 relaying.

14 ERIK BROUSSARD: We are going to present the  
15 same format as the other reefs. This is the Pascagoula  
16 Causeway Reef.

17 These are 2017 samples. You have seven point  
18 eight sack size oysters per square meter. You can see  
19 some good seed and very little spat.

20 Here is the three-year trend. We started  
21 including this in our reef assessment three years ago.  
22 That's all we have data for, and you can see a downward  
23 trend.

24 These reefs, as well, have fallen victim to some  
25 of the mortality events and the record amount of rain we

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1 have had this year.

2 The West Pascagoula Reef, six point three sack  
3 size oysters per square meter, with some seed and very  
4 little spat. We have two years of data for this reef,  
5 and, again, you can see coming down from fourteen sack  
6 size oysters per square meter all the way down to six, in  
7 a two-year period.

8 We did do some diving in Graveline. One point  
9 three sack size oysters per square meter, down from  
10 fourteen, as well, with very little spat and seed.

11 Here's a map that, basically, sums it up, how  
12 many acres each one of those reefs are and how many sacks.

13 When I talk about sacks here, we conduct a reef  
14 assessment the same. It's sacks of marketable size  
15 oysters.

16 There is a difference, when you start talking  
17 about transplanting because they are sacks of material.

18 Being that the market size was so high in the  
19 past years and it is low, now, that tells you the reef is  
20 still there, it is still very dense, and there is probably  
21 more sacks of material there than there are sacks of  
22 market size oysters. That is just something to keep in  
23 mind.

24 COMMISSIONER GOLLOTT: Wouldn't you say that  
25 probably the lack of spat indicates that the reef hasn't

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1 been turned over, worked, or there is nothing for the  
2 cultch material to attach to because it is so dense?

3 With so many marketable oysters, that just  
4 points to me that it needs to be thinned out and moved and  
5 placed in Biloxi Bay, and it would give Pascagoula a  
6 chance to spread out and the oysters to start growing  
7 better, getting more food.

8 One of the things that I want to do and I think  
9 we have already agreed to go back in and cultch plant  
10 Pascagoula, after we take the oysters out of there, so we  
11 are not depleting Pascagoula. All we are doing is  
12 utilizing and refertilizing it so we will have nice  
13 oysters in the future.

14 What I would like to do is just leave it up to  
15 the Executive Director and the staff to get together in  
16 October and let's figure out how many we need to move,  
17 what is the right amount to move.

18 I would like to put that in a motion.

19 COMMISSIONER BOSARGE: Can you state that motion  
20 one more time?

21 COMMISSIONER GOLLOTT: What I would like to do  
22 is leave it up to the Executive Director and the staff to  
23 set how many oysters that we relay out of Pascagoula into  
24 Biloxi, and I do want to start this in October, and I do  
25 want to, at the next opportune time, to go back in and

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1 cultch plant Pascagoula so we can keep this thing going.  
 2 To me, Pascagoula, is one of the ideal areas to  
 3 catch a spat and to raise an oyster. It has been doing it  
 4 for years. We have about seventy-five years of nothing  
 5 but the oysters sitting there catching spat and growing  
 6 and dying and producing reefs. There is a lot of reef  
 7 there.

8 I think we figured out that it would be a lot  
 9 cheaper to build reefs in Biloxi Bay by relaying these  
 10 oysters, plus what have you got, three or four year class  
 11 of oysters that you just showed us sizes and stuff that is  
 12 coming.

13 By letting the fishermen catch the three-inch  
 14 plus oysters, we are also setting it up for the next two,  
 15 or three, years in the class, leaving the spat there to  
 16 grow.

17 COMMISSIONER BOSARGE: We have a motion.

18 I would like to discuss it just a little bit  
 19 more. You talked about, Erik, oysters versus material.

20 Me personally I would like to see us actually  
 21 set a hard number on what we are going to take from  
 22 Pascagoula, or what we are not going to take from  
 23 Pascagoula.

24 If we say we are going to take thirty percent  
 25 from Pascagoula Reef, how are we going to figure out what

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1 is oysters and what is material?

2 Have you got that wrapped around your head  
 3 somehow?

4 ERIK BROUSSARD: We have given that some  
 5 thought, and that might be something we can look into,  
 6 giving you more of a volumetric measurement versus how  
 7 many marketable oysters are there. We can look into  
 8 coming up with some numbers.

9 COMMISSIONER BOSARGE: I mean, there is a big  
 10 difference between catching oysters and culling on the  
 11 reef and leaving a lot of material.

12 In your opinion, what would you say if you were  
 13 to drop a dredge, pick it up, dump it, what percentage is  
 14 going to be marketable oysters and what percentage is  
 15 going to be material?

16 ERIK BROUSSARD: Well, going back to those  
 17 drafts this year, you can see the decline in marketable  
 18 oysters. In previous years, the percentage would be  
 19 higher because you were at fourteen marketable size  
 20 oysters. It really just depends on what state the reef  
 21 itself is in.

22 COMMISSIONER BOSARGE: Even though the reef,  
 23 like Commissioner Gollott says, hasn't been touched in  
 24 seventy-five years for the most part, it is still in a  
 25 declining stage.

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1 If you look across all the states for the most  
 2 part, that's where all the oysters are, even with us with  
 3 reefs that haven't been touched.

4 I agree with Commission Gollott in that I would  
 5 love to see some oysters moved from Pascagoula to Biloxi,  
 6 but I would like to set that number at a hard number and,  
 7 at the same time -- because we are not just removing  
 8 oysters. We are removing material -- go back and cultch  
 9 plant where we took the oysters from.

10 COMMISSIONER GOLLOTT: Excuse me.

11 would you take Graveline out of that?

12 My motion was not for Graveline. I do not want  
 13 to mess with Graveline, at this point.

14 ERIK BROUSSARD: Do you want to distinguish  
 15 between the two Pascagoula reefs, west River and Causeway?

16 COMMISSIONER GOLLOTT: No. That's all basically  
 17 the same.

18 ERIK BROUSSARD: Okay.

19 COMMISSIONER GOLLOTT: We have had years and  
 20 years of cultch material building up there and dying. If  
 21 you move a little bit of cultch material with it, if you  
 22 come back with some fresh cultch material, we are not  
 23 killing the Pascagoula Reef, believe me.

24 You could put a hundred dredge boats in there  
 25 and never get down to the bottom of it, I don't believe,

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1 as thick as that thing is. Like I say, you are going to  
 2 have to have good tide days to even get on top of the reef  
 3 there are so many oysters there, but I think it can be  
 4 worked out with the staff and the Executive Director, and  
 5 we don't have to put a hard number on it.

6 That's my motion.

7 COMMISSIONER BOSARGE: We have a motion.

8 Do we have a second?

9 COMMISSIONER HARMON: So seconded, Mr. Chairman.

10 COMMISSIONER BOSARGE: We have a motion and a  
 11 second.

12 Any further discussion?

13 (No response.)

14 COMMISSIONER BOSARGE: All those in favor say  
 15 aye.

16 (Commissioner Gollott, Commissioner Harmon,  
 17 Commissioner Havard, Commissioner Trapani in favor.)

18 COMMISSIONER BOSARGE: Opposed?

19 (Commissioner Bosarge opposed.)

20 COMMISSIONER BOSARGE: Motion carries.

21 ERIK BROUSSARD: Thank you.

22 COMMISSIONER HARMON: May I make a statement?

23 COMMISSIONER BOSARGE: Sure.

24 COMMISSIONER HARMON: I know that we are spread  
 25 real thin on our resources working with this. I would

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1 like to make sure that we get back over to Pascagoula and  
2 do the culch material and cultivate this with some  
3 bagless dredges. It is a very important area to us.  
4 Let's just make sure that we don't neglect it. It has  
5 helped us. Let's give it some help back.

6 ERIK BROUSSARD: Yes, sir.

7 COMMISSIONER HARMON: Thank you.

8 COMMISSIONER BOSARGE: Thank you.

9 JOE JEWELL: Thank you Erik. Thank you

10 Commissioners.

11 Next up on the agenda for Marine Fisheries for  
12 the Commission's consideration is a Haul Seine update. It  
13 is a non-action item. It is going to be presented by Mr.  
14 Matt Hill.

15 MATT HILL: Good morning again Commissioners,  
16 Director Miller, Ms. Chestnut.

17 I'm just going to do a quick haul seine update.  
18 First, I want to go over the regulations that pertain to  
19 the haul seine. I think there has been a little bit of  
20 confusion on this.

21 The first part of these regulations are found in  
22 Title 22 Part 5, Rules and Regulations that Establish  
23 Restrictions Governing the Use of Nets, Fish Traps and  
24 Pots within the Territorial waters of the State of  
25 Mississippi and Establishing Certain Catch Limitations and

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1 closure areas three hundred and sixty-five days a year.  
2 They are shaded in green and, as you can see, there are no  
3 areas shaded in green which is to say there are no  
4 recreational closure areas for fishing.

5 The next restriction we come to with haul seine  
6 is also in Title 22 Part 5, Chapter 4, Section 101,  
7 Subsection 101.08. It states:

8 "It shall be unlawful for any person, firm, or  
9 corporation to use at any time trammel nets, gillnets,  
10 seines, or any other like contrivances in excess of twelve  
11 hundred feet in length."

12 Additional haul seine requirements are also  
13 found in Title 22 Part 5, Chapter 4, Section 101,  
14 Subsection 101.10:

15 "It shall be unlawful for any person, firm, or  
16 corporation to leave a gillnet, trammel net, purse seine,  
17 seine, or any other net like contrivance governed by the  
18 restrictions set forth in this Part unattended in the  
19 waters of this state, and at least one person shall be  
20 required to stand by, within one boat length of the boat  
21 using said net, at all times the net is in the water. It  
22 shall further be unlawful for a person, firm, or  
23 corporation, to use, or have in their possession, a  
24 gillnet, trammel net, seine, or like contrivance, on the  
25 waters of this state without a visible buoy attached every

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1 Quotas.

2 The first issue we come to is in Chapter 4,  
3 Commercial Net Closure Areas and Gear Size Restrictions.

4 This is a very lengthy chapter, especially when  
5 we start talking of the net closure areas, so we produced  
6 some maps to make it a little clearer for everyone.

7 The areas shaded in green are the areas that are  
8 closed to haul seine fishing year round. You can see it's  
9 the bays and the bayous. It's one mile around Ship  
10 Island, Horn Island, Petit Bois Island and some areas  
11 around Pascagoula. It is a very difficult line to draw.  
12 There are some markers that aren't currently there  
13 anymore. We did some historical search, and this is a  
14 fairly accurate depiction of that.

15 what we don't have in here because it's just too  
16 numerous, it's within twelve hundred feet of any active  
17 pier and some other manmade structures that just didn't  
18 seem relevant to this particular presentation.

19 Also, during the period from May 15<sup>th</sup> through  
20 September 15<sup>th</sup>, there are additional haul seine closure  
21 areas. These include Telegraph Key on the bottom left,  
22 one mile around Cat Island and one mile around Round  
23 Island, and these are basically your summer months.

24 We also wanted to compare this to your  
25 recreational closure areas. These are your recreational

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1 one hundred feet clearly marked with the license number,  
2 or owner's full name, thereon."

3 We decided it would be best to do a harvest  
4 comparison, and we began by doing just a quota species for  
5 the most recent time period that we could which is the  
6 first six months of 2017, January through June.

7 As you can see, the white shaded area, that is  
8 your recreational landings which accounts for a little  
9 over one point eight million pounds of Red Fish, Speckled  
10 Trout, or Flounder, for the first six months of the year  
11 which represents ninety-five percent of the total harvest  
12 of the resource.

13 The commercial percentage is approximately five  
14 percent, with one percent of that coming from the haul  
15 seine industry, and the other four percent coming from all  
16 other commercial gear. The total comes to a little over  
17 one point nine million pounds.

18 We also combined all finfish together. This  
19 includes all recreationally and commercially viable  
20 species. The white area, again, shows the recreational  
21 sector landings of a little over three point three million  
22 pounds which accounts for ninety-three percent of all  
23 finfish landed in the state.

24 The commercial sector is responsible for  
25 approximately seven percent of that, with the haul seine

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1 industry, again, coming in at one percent of that catch,  
2 and all other commercial gear contributing to six percent  
3 of the catch, which gives us a total of a little over  
4 three and a half million pounds.

5 we just broke down the commercial gear  
6 comparison for all finfish, as we feel like there has been  
7 a little misinformation put out there. The haul seine  
8 industry, when compared to all other commercial gear  
9 types, catches approximately seventeen percent of all  
10 finfish. All other gear which includes mainly the hook-  
11 and-line industry is still responsible for eighty-three  
12 percent of the catch.

13 The total catch so far for the entire commercial  
14 fishery is a little over quarter of a million pounds.

15 We have also had reports of people believing  
16 that there has been a run on haul seines.

17 As you can see, the licenses sold have increased  
18 slightly. The active numbers have increased slightly, but  
19 I would like to also put a caveat on this. In the three  
20 years that we are showing, there has been no active  
21 gillnet fishery in the State of Mississippi. We have no  
22 active commercial gillnet landings showing up in our trip  
23 ticket system. We feel like some of this is due to some  
24 of these fishermen have swapped gear types from the  
25 gillnet to the haul seine, not necessarily that we have

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1 had an increase in fishing.

2 with that, I will take any questions.

3 COMMISSIONER BOSARGE: I think we also have some  
4 public comments, some people who want to speak.

5 COMMISSIONER HAVARD: Let me ask you a question  
6 real quick, Matt, before we get started on that.

7 It is my understanding that these nets are  
8 primarily made out of monofilament?

9 MATT HILL: That is correct.

10 COMMISSIONER HAVARD: The holes in these nets  
11 are larger than normal, and these nets tend to be acting  
12 in the same manner as gillnets?

13 MATT HILL: I don't understand the question of  
14 being larger than normal. There are no mesh size  
15 restrictions on any net that we have, except for the purse  
16 seine. They are within the regulations that we currently  
17 have in place.

18 COMMISSIONER HAVARD: Are these nets acting as  
19 entanglement devices, in the same way that gillnets were?

20 MATT HILL: All nets have the potential, if they  
21 are not used correctly, to act as an entanglement device.  
22 Shrimp trawls, purse seines, cast nets, brill nets, all  
23 have the potential to act as an entanglement device.

24 The haul seine, when used correctly and with the  
25 correct mesh size, is a very selective gear. It targets

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1 the species that the fishermen want to target.

2 We had a long conversation with Marine Patrol  
3 the other day on some regulations that we may want to  
4 consider putting in place, but overall they do agree that  
5 it is a very efficient gear and it is a very selective  
6 gear.

7 However, it is just like anything else. If the  
8 net is not used correctly, it can be considered as a  
9 gillnet. An example of that is if they let loose of that  
10 net and if they do not keep it moving and it stays  
11 stagnant in the water, then, there is a much greater  
12 chance of fish being entangled, instead of corralled, as  
13 the net was designed for.

14 COMMISSIONER HAVARD: I had some people ask me  
15 about these nets potentially becoming ghost nets like the  
16 old gillnets used to be.

17 MATT HILL: These nets are very expensive to  
18 make. It's not something that you just run down to the  
19 store and buy. These nets cost, on the average, twenty-  
20 five hundred dollars each to construct a new net.

21 These fishermen are making a living. It's not  
22 the most lucrative living. I find it very difficult to  
23 believe that they would leave a twenty-five hundred dollar  
24 net in the water to ghost net fish. The fishermen that  
25 are using them are very seasoned fishermen.

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1 One of the things that we are working with and  
2 one of the things that we have stressed is that the net  
3 must always be attached to the vessel.

4 We have had one instance where the net was not  
5 attached to the vessel and we considered that fisherman  
6 was using that net as a gillnet, and we supported Marine  
7 Patrol in that. We supported the court case in that, but  
8 that was a very isolated incident.

9 All the incidents that I have witnessed and that  
10 we have documented, the fishermen have kept the net  
11 attached to the vessel and they have kept the net moving  
12 to corral the fish and not entangle the fish. It is not  
13 in their interest to entangle these fish.

14 COMMISSIONER GOLLOTT: Matt, just to get one  
15 thing clear, there is a quota on Speckled Trout and  
16 Flounder for commercial fishermen. When they reach that  
17 quota, the season closes.

18 MATT HILL: Yes, sir.

19 COMMISSIONER GOLLOTT: How they catch the fish  
20 really doesn't make any difference. It's still a fifty  
21 thousand pound quota.

22 MATT HILL: It is still a fifty thousand pound  
23 quota, and one of the arguments that brought this to the  
24 table to light with us was we had another sector of the  
25 commercial fishery that felt as if this gear type was

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1 harvesting too much of the quota.

2 We did an analysis and we did it specifically on  
3 Speckled Trout, and we were able to show that if we  
4 eliminated the haul seine industry from catching a quota  
5 species such as Speckled Trout -- and we had a banner year  
6 on Speckled Trout. There is no getting around it. We had  
7 a phenomenal year and we are continuing to have a  
8 phenomenal year, commercially and recreationally, but, if  
9 take all the haul seine landings out of the Spotted  
10 Seatrout commercial fishery, the hook-and-line fishery  
11 would have gained twenty-two extra days in that fishery.  
12 We would eliminate a gear type to allow another gear type  
13 to fish for a little over twenty days to catch that other  
14 seventeen percent of the fishery.

15 COMMISSIONER GOLLOTT: I think it is pretty  
16 ridiculous that the recreational fishermen almost caught  
17 two million pounds and they've got fifty thousand pounds  
18 for commercial fishermen and somebody is saying something  
19 about it.

20 COMMISSIONER BOSARGE: One other point. The  
21 hook-and-line fishermen, the only closures I believe they  
22 have would be north of the CSX.

23 MATT HILL: That is correct.

24 COMMISSIONER BOSARGE: Whereas, that haul seine  
25 fisherman, there are so many places he can't go.

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1 MATT HILL: That is correct.

2 COMMISSIONER BOSARGE: In other words, it is  
3 hard for him to catch fish with that gear.

4 MATT HILL: Yes.

5 I also would like to point out that it is not  
6 necessarily a fishery that we see that targets especially  
7 quota species. I have shown that they caught  
8 approximately seventeen percent.

9 This gear type is very effective in targeting  
10 what we like to think of as underutilized species, species  
11 that hook-and-line fishermen, or other commercial  
12 fishermen using different gear types, are not interested  
13 in catching. They are difficult to catch with hook and  
14 line, but they are still a valuable fish in several  
15 markets, and that is how these fishermen are making their  
16 living. It's not the quota species. It's the  
17 underutilized species that we are seeing.

18 COMMISSIONER BOSARGE: Any more discussion?

19 COMMISSIONER HAVARD: Do we have any idea what  
20 the bycatch is?

21 MATT HILL: We have not done an official study  
22 on what the bycatch is. what we have seen is it is very  
23 efficient, when you look and even asking some of the law  
24 enforcement officers. I have point blank asked them, and  
25 I'm not going to speak for them. We did point blank ask

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1 them, are these sets, in your opinion, clean sets, and  
2 they said, yes, they are very clean sets.

3 They can target the exact species of fish they  
4 need to catch, based on mesh size. If they don't want to  
5 catch Spotted Seatrout, they will use a four-and-a-half to  
6 five inch mesh to where Speckled Trout will go through  
7 there, but they may possibly be targeting Black Drum, or  
8 they may use a different mesh size in a different area for  
9 Spanish Mackerel.

10 They are able to target and they are very  
11 effective at it, to target the species that they need to  
12 target for that particular time of the year and what is  
13 going to allow them to profit the most.

14 COMMISSIONER BOSARGE: If you look at where they  
15 have to fish, then, they see the fish. They are not just  
16 blind hauling. They see the fish and they set the net.

17 MATT HILL: That is correct.

18 COMMISSIONER BOSARGE: We've got some folks who  
19 want to make public comment on this issue. The first one  
20 being Mr. F. J. Eicke.

21 JOE JEWELL: Before Dr. Eicke gets up here, my  
22 colleague wanted me to mention we have been in  
23 consultation with Marine Patrol, and I wanted to clarify  
24 this for Commissioner Havard.

25 We are considering some regulatory changes to

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1 one of our regulations, Title 22 Part 5, to clarify some  
2 of the issues that Mr. Hill brought up.

3 One of those issues has been an issue for Marine  
4 Fisheries and Marine Patrol, how we define that section of  
5 the code, Title 22 Part 5, Chapter 4, Subsection 100.10,  
6 where it describes the position of the boat:

7 "Required to stand by, within one boat length of  
8 the boat using said net, at all times the net is in the  
9 water."

10 Well, we interpret that as once he releases from  
11 the boat, and that has happened once this year. It rarely  
12 happens, but it did happen. The boat operator who did  
13 that admitted to it and Marine Patrol acted appropriately  
14 in that instance.

15 Marine Fisheries and Marine Patrol are working  
16 to clarify that regulation so that it more succinctly  
17 describes that act because it doesn't do that, now, what  
18 happens afterwards when they turn loose of the boat.

19 As Commissioner Havard pointed out, there is  
20 some improvement to give Marine Patrol more flexibility in  
21 the field when they are observing those potential  
22 regulatory breaches.

23 I am going to be out of the office in October  
24 attending the ISSC conference. It's one of our big  
25 conferences.

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1 We will probably come forward in November with  
2 some proposed regulatory changes to make it a little more  
3 clear for both Marine Patrol, the fishermen and Marine  
4 Fisheries.

5 I hope that answers the question.

6 COMMISSIONER BOSARGE: Yes, sir.

7 Get them all in the same room maybe and try to  
8 make sure that the rule works for both enforcement and for  
9 the fishermen.

10 JOE JEWELL: Sure.

11 Dr. Eicke.

12 F. J. EICKE: As y'all know, I'm here as a  
13 representative of CCA Mississippi.

14 We did address this issue with Director Miller.  
15 Our opinion, basically, is that we really haven't gotten  
16 to the point where we think these are defined, in terms of  
17 the construction and the use, to the point where we are  
18 comfortable with it.

19 I want to make it clear, two things, one is that  
20 where this started was on the fact that a number of  
21 recreational fishermen contacted me, and I think  
22 Commissioner Havard will say that they contacted him, as  
23 well, with the first thing being the gillnets are back.

24 It was some observations. Whether they are  
25 legitimate, or whether they were reliable, or whatever,

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1 to clarify it.

2 We made some initial kinds of inquiries and it  
3 turns out that back in 1998 there was a bill proposed that  
4 defined nets in a number of different ways, one of which  
5 was the definition of gillnets and seines, and that came  
6 at a time we have kind of decided, based on my discussion  
7 with some of the older members of CCA who were around at  
8 that time and active at that, that bill never went forward  
9 because that was the time when the Commission took the  
10 action to make the requirement that gillnets be  
11 biodegradable and our experience, obviously, has been that  
12 that essentially took gillnets out of the water, and  
13 that's where the comments by some of our members came  
14 from, in terms of the history of this particular issue.

15 COMMISSIONER BOSARGE: Your time is up, Mr.  
16 Eicke. I'm sorry.

17 You talked about comparing the closure areas to  
18 recreational. I think it is very relative. The people  
19 need to understand this. Most people, in my opinion, have  
20 a swayed view of what commercial fishermen do.

21 The marine resources, in the State of  
22 Mississippi, belong to all the people of the State of  
23 Mississippi, not just the people in these three, or four,  
24 coastal counties. Commercial fishermen provide that  
25 resource for the rest of the people in the State of

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1 but they were observations, and that's what brought this  
2 up.

3 The second thing that I would say is the  
4 criticisms that have emerged today from Commissioner  
5 Gollott and I guess you, as well, Chairman Bosarge,  
6 comparing catch data and closed areas and such to  
7 recreational fishermen is really not even needed. It's an  
8 irrelevant piece of information.

9 This is about the definition of haul seines as  
10 they were observed by some of our members and as they  
11 labeled them.

12 If we can get to the point where we better  
13 define these, in terms of how they are constructed and how  
14 they are used, it's a commercial issue, but, in that  
15 sense, it's a gillnet issue that goes back to the 1990's  
16 when that particular issue was not exactly approached in a  
17 calm manner.

18 We don't want to get back there. We want to do  
19 something that is legitimate and that allows commercial  
20 fishermen to function in a way that basically fits the  
21 history and the current regulations.

22 With that, I'm going to stop, rather than going  
23 further, and we will wait.

24 Director Jewell mentioned that there was some  
25 thinking in the department about changing the regulation

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1 Mississippi.

2 F. J. EICKE: My comment, or reaction, to what  
3 you are saying is there was some reason for those closures  
4 and I think if those reasons are no longer applicable,  
5 then, there should be some changes to the closure areas,  
6 but, as of right now, this is the way the closure areas  
7 stand.

8 We are dealing with an issue that we are going  
9 to proceed on, apparently, with some additional  
10 clarification, and I think there is a need for that, in  
11 terms of how we define the nets.

12 COMMISSIONER BOSARGE: Yes, sir, all twelve  
13 people that are involved in that fishery; seven of them  
14 that are active.

15 F. J. EICKE: To have a pie chart as we did with  
16 the one million, or whatever it is, recreational catch,  
17 what I have always believed is that is an estimate that  
18 very often is overestimated, and we need to get some real  
19 data.

20 COMMISSIONER BOSARGE: Mr. Eicke, we are  
21 overfished and undergoing overfishing.

22 F. J. EICKE: I agree with that, and we can deal  
23 with that issue as we need to.

24 COMMISSIONER BOSARGE: I agree. Because I  
25 represent the commercial industry, it does tend to get to

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1 me when if the tables were turned and this was a  
2 recreational fishery and the commercial fishermen were  
3 catching that many fish, this would be all over every  
4 front page of the papers from here to eternity.

5 F. J. EICKE: I would remind you, Commissioner  
6 Bosarge, that there are apparently over eighty thousand  
7 recreational licenses in this state.

8 COMMISSIONER BOSARGE: I agree.

9 F. J. EICKE: And that needs to be recognized,  
10 as well.

11 COMMISSIONER BOSARGE: Yes, sir. Thank you, Mr.  
12 Eicke.

13 F. J. EICKE: Thank you.

14 COMMISSIONER BOSARGE: Next is Mr. Steve  
15 Shepard.

16 STEVE SHEPARD: This is the real reason I came  
17 today because everyone is talking about haul seines. This  
18 spring, those haul seines looked about like a shrimp  
19 trawl. All of a sudden they come up monofilament and,  
20 now, I couldn't see close up that they actually are using  
21 them with mesh sizes that conform to the size of the fish.

22 That's gilling. That is gillnetting. That is  
23 entanglement, and that should not be allowed. Just  
24 because it's called a haul seine it falls under the same  
25 change that was made, regarding the biodegradable rule.

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1 Now, as far as no one would throw away a twenty-  
2 five hundred dollar net, I can assure you twenty-five  
3 hundred dollar gillnets were thrown away all the time; all  
4 the time back in the old days.

5 I know gillnetters. I know them, and they  
6 admitted it because, if they got into a mess of catfish,  
7 or something, they dropped the net. It was easier for  
8 them to go home and get another net than it was to fight a  
9 big balled up mess of bycatch which, now, you say never  
10 happens.

11 Dr. Eicke's comment about eighty thousand is  
12 something to think about because, as I told the number of  
13 haul seiners that were telling me on our social media,  
14 well, what's your problem. Why doesn't everybody just go  
15 get a haul seine, yes, that's a solution. Let's everybody  
16 get a haul seine. I'll tell you this. If everyone got a  
17 haul seine and actually used it, it would be more fair  
18 than picking out a few people and saying, everybody else  
19 uses a rod and reel.

20 To hear this report on the haul seine, they act  
21 like a rod and reel is equal to a haul seine. We've got a  
22 limited resource out there. The fairest way to do  
23 commercial fishing is have everyone use the same gear.

24 Now, nobody is fussing over the hook-and-line  
25 commercial guys. You know why? You can't even tell them

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1 apart from anybody else. If everybody is out fishing  
2 Speckled Trout and they've all got rods and reels, I  
3 assume that the commercial hook-and-line guy is really  
4 good at pulling them in, if he is going to catch enough to  
5 make it worth his while.

6 These millions of pounds coming in from these  
7 recreational people, it is interesting to me because every  
8 person I knew growing up that was good at catching  
9 Speckled Trout, even back in the days when you didn't have  
10 a license. They were selling fish. When the license came  
11 in, they all got hook-and-line licenses, the ones who knew  
12 how to fish.

13 I don't know these amateurs who recreationally  
14 fish who are slaughtering the fish. I know who the  
15 experts are, and they tend to sell the fish.

16 Now, I want to comment on your closures, too.  
17 Let me first of all recommend that you add a closure. If  
18 you want the haul seiners to survive, get them off that  
19 Singing River Island area because last spring before they  
20 went to the monofilament gillnet, I heard it from a number  
21 of fishermen. They are out there fishing and here comes a  
22 haul seiner. He sets one end of the net on the rocks,  
23 makes a big U, goes back to the rocks and he sucks up all  
24 the Speckled Trout in that spot. Then, he moves to the  
25 next section (indicating).

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1 Now, if you want to keep the haul seine, don't  
2 do that in front of a bunch of recreational fishermen.  
3 Have the guy with the haul seine switch to a rod and reel  
4 and participate with everybody in catching those fish.

5 Please do not be unfair.

6 By the way, I saw twenty-three out there, not  
7 seven, or eight. I saw twenty-three lately because they  
8 are excited by this monofilament net.

9 This should be illegal. This is an entanglement  
10 net. If they ditch them, we are going to have ghost  
11 fishing again like we had back when the gillnetters were  
12 not responsible, and I don't see any reason why the haul  
13 seiners will be responsible.

14 They have a record. They've got a track record  
15 in this state. It's not good.

16 If the eighty thousand are going to have to use  
17 their voice, we may use our voice in the legislature.  
18 Thank you.

19 COMMISSIONER BOSARGE: Thank you, Mr. Shepard.  
20 Next is Ryan Bradley.

21 RYAN BRADLEY: Thank you Commissioners for  
22 allowing me to speak today.

23 My name is Ryan Bradley, and I'm involved with  
24 the Mississippi Commercial Fisheries United, Incorporated.

25 First, I would like to say that I respectfully

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1 disagree with the comments made by Mr. F. J. Eicke and Mr.  
2 Steve Shepard.

3 Haul seines are not the problem. There are only  
4 a few vessels who fish regularly with this method,  
5 compared to the other types of fishing.

6 what we really need to look at is why the  
7 commercial sector is only being allocated less than two  
8 percent of the overall harvest for a variety of species,  
9 not just Speckled Trout.

10 There is a lot of talk about these haul seiners  
11 are using monofilament. Most of the ones I've seen are  
12 made of nylon.

13 The haul seines are prohibited from operating in  
14 many locations, they are prohibited from operating at  
15 night, and they must always be within a boat's length of  
16 the net.

17 Haul seining is hard work, and the men and women  
18 who do it provide public access to resources that belong  
19 just as much to the people in Jackson, or Ridgeland, or  
20 Hattiesburg, as they do to the people on this Coast who  
21 are blessed to have access to the resource with a boat.

22 we should be thankful for the hardworking men  
23 and women who fish commercially with these haul seines to  
24 provide this access to the public.

25 The haul seines are not the problem. We need to

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1 address why the commercial sector is getting such a small  
2 allocation.

3 I'm glad that they admit that the eighty-  
4 something thousand recreational licensed are a problem,  
5 that they seem to think that they are the only ones who  
6 deserve access to the resource.

7 what if we start having all the public  
8 throughout the state start weighing in to the legislature,  
9 wondering why they are not getting their fair share, their  
10 access to the resource.

11 With that being said, I think the haul seines  
12 are operating just fine. There is not an issue here.

13 Thank you, sir.

14 COMMISSIONER BOSARGE: Thank you, Mr. Bradley.

15 Moving on, I think we are going to have a  
16 jubilee update, by Mr. Jonathan Barr.

17 JOE JEWELL: Yes, Mr. Jonathan Barr will be  
18 doing that update.

19 JONATHAN BARR: Good morning Commissioners,  
20 Director Miller, Ms. Chestnut.

21 Last month the Commission asked that we come  
22 forth with a recommendation for future jubilee events.

23 For starters, I would like to touch on current  
24 regulations for collecting seafood from the beach in such  
25 an event.

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1 In order to retain any finfish at all, fishermen  
2 must have a saltwater recreational license. All size and  
3 bag limits do apply.

4 For shrimp, no license is required. If you are  
5 fishing with a cast net, you may retain only fifty pounds  
6 of shrimp head-on.

7 For crabs, no license is required, but a minimum  
8 carapace size of five inches is required.

9 As of yet, no other Gulf state suspends any  
10 rules and regulations, during jubilee-type events.

11 We did bring four options to the table for y'all  
12 to consider. Three of these four, we consider regulatory  
13 change.

14 The first option, status quo, what we currently  
15 do. The agency does not currently suspend any rules, or  
16 regulations, during jubilee events.

17 The second option would be to repeal the bag and  
18 size limits in designated areas, during these events.

19 The third option is to repeal license  
20 requirements for the collection of finfish, during  
21 jubilees. This would require a State statute  
22 modification.

23 Then, the fourth option is a combination of two  
24 and three.

25 The staff's recommendation, at this time, is

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1 that we maintain current regulations, during future  
2 jubilee events.

3 COMMISSIONER GOLLOTT: Mr. Chairman, I make the  
4 motion that we go with the staff's recommendation on this  
5 jubilee event.

6 COMMISSIONER HARMON: I'll second that motion.

7 COMMISSIONER BOSARGE: I'm hard of hearing.

8 Can you say it one more time, Richard, please?

9 COMMISSIONER GOLLOTT: That we go with the  
10 staff's recommendation on this jubilee event and leave it  
11 as it.

12 COMMISSIONER BOSARGE: Thank you.

13 We have a motion and a second.

14 All those in favor say aye.

15 (All in favor.)

16 COMMISSIONER BOSARGE: Opposed?

17 (None opposed.)

18 COMMISSIONER BOSARGE: Motion carries.

19 JONATHAN BARR: Thank you.

20 COMMISSIONER BOSARGE: Thank you.

21 JOE JEWELL: Next up for the Commission's

22 consideration is a new State record. That will be  
23 presented by Mr. Travis Williams.

24 TRAVIS WILLIAMS: Good morning Commissioners,  
25 Director Miller, Ms. Chestnut.

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1 Today for your consideration is a new State  
2 saltwater sport fishing record. This record falls in the  
3 conventional tackle category.

4 The record is an Oyster Toadfish, *Opsanus tau*.  
5 The old record is two pounds four point four eight ounces.  
6 The new record is three pounds two ounces. The angler is  
7 Mr. Sherman Roberts.

8 Here is a picture of the Toadfish. Here is Mr.  
9 Roberts with the Toadfish.

10 What would be required from the Commission is a  
11 motion to adopt the new State record Toadfish.

12 COMMISSIONER BOSARGE: We need a motion to  
13 adopt.

14 COMMISSIONER TRAPANI: I'll make that motion to  
15 adopt the new State record for Toadfish.

16 COMMISSIONER GOLLOTT: I'll second it.

17 COMMISSIONER BOSARGE: We have a motion and a  
18 second.

19 All those in favor say aye.

20 (All in favor.)

21 COMMISSIONER BOSARGE: Opposed?

22 (None opposed.)

23 COMMISSIONER BOSARGE: Motion carries.

24 TRAVIS WILLIAMS: Thank you.

25 COMMISSIONER BOSARGE: Thank you.

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1 Next is Office of Coastal Resources Management,  
2 Mr. Jan Boyd.

3 JAN BOYD: Good morning Mr. Chairman,  
4 Commissioners, Director Miller, Ms. Chestnut.

5 We have three items for your consideration this  
6 morning, and Holland Lamier will be our first presenter.

7 HOLLAND LAMIER: Good morning. I will be  
8 presenting the first item which is a request for a permit  
9 extension by Warren Paving, Incorporated.

10 The location is the Bayou Bernard Industrial  
11 Canal at 11211 Reichold Road, Gulfport, in Harrison  
12 County.

13 It's in the Industrial Development Use District,  
14 and the agent is Culpepper and Associates.

15 This is the project location. You can see I-10,  
16 Cowan Lorraine, Highway 605, and that is the project  
17 location right here (indicating diagram).

18 In their project description, we have the  
19 structure as being a six hundred and eighty-eight linear  
20 foot bulkhead, three mooring pilings and fill with the  
21 dimensions of six hundred and eighty-eight feet by twenty-  
22 two feet, equaling four thousand five hundred and forty-  
23 three cubic yards of material.

24 On September 6<sup>th</sup>, 2012, we issued the permit with  
25 an expiration date of September 6<sup>th</sup>, 2017.

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1 On August 21<sup>st</sup>, 2017, we received a submission  
2 with a request for an extension for two years.

3 Staff's recommendation is based upon  
4 departmental review and evaluation. We recommend that the  
5 CMR approve the applicant's request.

6 COMMISSIONER BOSARGE: Are there any questions?  
7 (No response.)

8 COMMISSIONER GOLLOTT: Mr. Chairman, I make the  
9 motion that we accept the staff's recommendation on this  
10 project.

11 COMMISSIONER BOSARGE: We have a motion.  
12 Do we have a second?

13 COMMISSIONER HARMON: So seconded, Mr. Chairman.

14 COMMISSIONER BOSARGE: We have a motion and a  
15 second.

16 Any further discussion?  
17 (No response.)

18 COMMISSIONER BOSARGE: All those in favor say  
19 aye.

20 (All in favor.)

21 COMMISSIONER BOSARGE: Opposed?

22 (None opposed.)

23 COMMISSIONER BOSARGE: Motion carries. Thank  
24 you.

25 HOLLAND LAMIER: Thank you.

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1 CHRIS PICKERING: Good morning Commissioners. I  
2 will be presenting the next two items on the agenda.

3 First is a request for a permit extension by the  
4 Mississippi Department of Marine Resources.

5 This is located on the Mississippi Sound, Heron  
6 Bay, St. Louis Bay, Back Bay of Biloxi, Davis Bayou,  
7 Graveline Bayou and Pascagoula Bay, in Hancock County,  
8 Harrison County and Jackson County. This is in the  
9 General Use District.

10 The applicant is requesting a change in the  
11 expiration date of the DMR's permit from June 22<sup>nd</sup>, 2026,  
12 to May 2<sup>nd</sup>, 2027. This is to match the U.S. Army Corps of  
13 Engineers permit expiration date.

14 The previously permitted project includes  
15 restoring up to thirty-five hundred acres of the proposed  
16 twenty-three thousand eight hundred and twenty-three acres  
17 of existing and historical oyster reefs, during Phase I of  
18 a ten-year project to restore the full twenty-eight  
19 thousand eight hundred and twenty-three acres.

20 Oyster shell, crushed concrete, or limestone  
21 cultch material, will be placed at a density of one  
22 hundred cubic yards per acre across each selected site,  
23 totaling no more than three hundred and fifty thousand  
24 cubic yards of material. This density will ensure less  
25 than six inches of relief of cultch materials across the

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1 bottom of each restoration site.  
 2 Because these areas are currently designated as  
 3 a General Use District, the applicant requested and was  
 4 granted a change in the Coastal Wetlands Use plan to a  
 5 Special Use District. This is S-1, Natural and Artificial  
 6 Oyster Reefs. Also, the applicant requested and was  
 7 granted a variance to Chapter VIII, Section 2, Part  
 8 III.0.1. of the Mississippi Coastal Program. This was for  
 9 permanent filling of Coastal Wetlands is discouraged.  
 10 Here are the diagrams from the previously  
 11 permitted project (indicating).  
 12 On December 22<sup>nd</sup>, 2015, a permit application was  
 13 submitted to DMR with an Environmental Impact Assessment  
 14 and a request for a variance.  
 15 On June 21<sup>st</sup>, 2016, the Commission approved the  
 16 permit application.  
 17 On July 26<sup>th</sup>, 2017, DMR received a request to  
 18 change the expiration date of the permit.  
 19 Based upon departmental review and evaluation,  
 20 the staff recommends that the Commission approve the  
 21 applicant's request to extend the expiration date of the  
 22 permit to May 2<sup>nd</sup>, 2027.  
 23 Any questions?  
 24 (No response.)  
 25 COMMISSIONER BOSARGE: Do we have a motion?

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1 COMMISSIONER TRAPANI: I'll make that motion to  
 2 extend the permit to May 2<sup>nd</sup>, 2027.  
 3 COMMISSIONER BOSARGE: We have a motion.  
 4 Do we have a second?  
 5 COMMISSIONER GOLLOTT: I'll second it.  
 6 COMMISSIONER BOSARGE: We have a motion and a  
 7 second.  
 8 All those in favor say aye.  
 9 (All in favor.)  
 10 COMMISSIONER BOSARGE: Opposed?  
 11 (None opposed.)  
 12 COMMISSIONER BOSARGE: Motion carries.  
 13 CHRIS PICKERING: Next is a violation update for  
 14 Juanita Starr. It is located on the Tchoutacabouffa River  
 15 at 12033 Motsie Circle in Biloxi, Harrison County. It's  
 16 in the General Use District, and the agents are Richard  
 17 Shepler and Michael Yentzen.  
 18 There were a hundred and twenty linear feet of  
 19 bulkhead constructed out of compliance with the previously  
 20 issued General Permit.  
 21 These are pictures y'all have already seen of  
 22 when we flagged it and the bulkhead as constructed.  
 23 On June 28, 2017, staff sent an email detailing  
 24 what would be required to complete an after-the-fact  
 25 application.

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1 On June 29<sup>th</sup>, 2017, staff informed everyone at  
 2 the site meeting how to complete an after-the-fact  
 3 application.  
 4 On July 18<sup>th</sup>, 2017, the Commission ruled to issue  
 5 a fine to Ms. Starr and Mr. Shepler in the amount of one  
 6 thousand dollars each which shall be paid within sixty  
 7 days of the Commission's decision, or by September 18,  
 8 2017.  
 9 The Commission also ruled to order the bulkhead  
 10 be brought into compliance with the General Permit issued  
 11 on July 5<sup>th</sup>, 2016, within sixty days of the Commission's  
 12 decision, or by September 18<sup>th</sup>, 2017.  
 13 In the event the project was not brought back  
 14 into compliance by that date, the matter should be  
 15 forwarded to the Attorney General's office for further  
 16 enforcement action.  
 17 On July 24<sup>th</sup>, 2017, staff met with the  
 18 applicant's attorney and handed him an application packet  
 19 and explained how to complete the after-the-fact  
 20 application.  
 21 On July 27<sup>th</sup>, 2017, the applicant by and through  
 22 counsel, Michael Yentzen, filed a Petition for  
 23 Reconsideration of the Commission's July 18<sup>th</sup>, 2017, ruling  
 24 and specifically requested, one, that the thousand dollar  
 25 fine issued to the applicant and her contractor be reduced

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1 to fifty dollars each and, two, that the applicant be  
 2 granted sixty days from the date of reconsideration to  
 3 apply for an after-the-fact permit.  
 4 On August 15<sup>th</sup>, 2017, the Commission denied the  
 5 applicant's Petition for Reconsideration and ruled that  
 6 the project be brought into compliance with the July 5<sup>th</sup>,  
 7 2016, General Permit no later than September 18<sup>th</sup>, 2017,  
 8 and, in the event the project was not brought back into  
 9 compliance by that date, the matter should be forwarded to  
 10 the Attorney General's office for enforcement action.  
 11 On August 17<sup>th</sup>, 2017, a letter was mailed to Ms.  
 12 Starr, Mr. Shepler and Mr. Yentzen to inform them of the  
 13 Commission's denial of the requested relief stated in the  
 14 Petition for Reconsideration and that the original ruling  
 15 was upheld. A copy of the letter from the original ruling  
 16 was enclosed.  
 17 On September 8<sup>th</sup>, 2017, staff received an after-  
 18 the-fact application for the bulkhead to be retained as  
 19 is.  
 20 We went through the application and  
 21 Environmental Assessment that was submitted, and we have a  
 22 response to some of the points that were made in there.  
 23 The Environmental Assessment states the bulkhead  
 24 as constructed will provide the applicant adequate  
 25 protection of their private property and constructing a

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1 bulkhead landward of the existing proposal would subject  
2 the applicant's property to loss due to erosion.

3 Staff believes protection can be obtained by  
4 constructing the bulkhead at, or above, the mean high tide  
5 line as flagged by DMR staff on June 29<sup>th</sup>, 2016, and  
6 without the filling of an additional three hundred and  
7 sixty square feet of Coastal Wetlands.

8 The Environmental Assessment states the bulkhead  
9 was constructed as proposed and, to the extent of the  
10 applicant's knowledge, above mean high tide.

11 The staff says the bulkhead was not constructed  
12 as flagged by staff. Accordingly, staff believes the  
13 bulkhead was constructed waterward of the line of mean  
14 high tide as of June 29<sup>th</sup>, 2016.

15 The Environmental Assessment states constructing  
16 a bulkhead landward of the existing proposal would not be  
17 consistent with DMR-080788 and DMR-110281.

18 I pulled the permits for these two projects, and  
19 the bulkheads were both permitted to be constructed at, or  
20 above, the current line of mean high tide as flagged by  
21 DMR personnel.

22 The Environmental Assessment states the  
23 alternative designs would not impact Coastal wetlands, or  
24 Section 404 wetlands, thus these designs would not require  
25 permitting.

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1 Any structures placed waterward of the mean high  
2 tide line as flagged on June 29<sup>th</sup>, 2016, would require  
3 authorization from the DMR.

4 while we agree Section 404 wetlands -- these are  
5 non-tidal wetlands -- would not be filled, staff believes  
6 Section 10 Waters, water of the U.S., could and have been  
7 filled.

8 The Environmental Assessment states other  
9 designs, such as constructing a bulkhead waterward of the  
10 existing proposal, would require fill of Coastal wetlands  
11 and Public Trust Tidelands.

12 Staff agrees with this statement, but also  
13 believes the bulkhead as constructed filled Coastal  
14 wetlands, Public Trust Tidelands and Section 10 waters.

15 The Environmental Assessment states that the  
16 current applicant is for General Permit reauthorization  
17 and the proposal is compatible with the Coastal Zone  
18 Management Plan, and no variance is required.

19 Staff cannot issue a General Permit for the  
20 current proposal because the proposal does not meet  
21 General Permit guidelines. We strongly believe  
22 waterbottoms were filled and Coastal wetlands at that.

23 The applicant would have to obtain authorization  
24 from the DMR, U.S. Army Corps of Engineers and Department  
25 of Environmental Quality for the placement of fill in

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1 waterbottoms, whether it is placed in Coastal wetlands, or  
2 not.

3 The applicant could also be required to mitigate  
4 for these wetland impacts.

5 Staff believes the applicant would need to  
6 request two variances to the Coastal Program:

7 One is the Chapter VII, Section 2, Part III.D.3  
8 which states, "Vertical face structures shall be aligned  
9 no further waterward than mean high tide, and constructed  
10 so that reflected wave energy does not destroy adjacent  
11 wetlands habitat."

12 The second is Chapter VII, Section 2, Part III,  
13 0.1 which states, "Permanent filling of coastal wetlands  
14 because of potential adverse and cumulative environmental  
15 impacts is discouraged."

16 The applicant has not requested a variance, but  
17 has claimed that a variance is not necessary.

18 The applicant has not demonstrated that impacts  
19 to wetlands have been avoided and minimized to the maximum  
20 extent practicable.

21 The Environmental Assessment states, "The  
22 project will create long-term and construction-related  
23 employment opportunities. The additional employment  
24 opportunities and expansion of the local tax base serves a  
25 higher public interest than the avoidance of temporary

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1 nominal impacts created by the proposed project. The  
2 project represents an insignificant impact to the public  
3 interest of coastal wetland protection, and it will serve  
4 a greater public interest by creating employment  
5 opportunities in South Mississippi."

6 This is for a private residential bulkhead and,  
7 therefore, does not serve a higher public purpose. Staff  
8 does not agree that filling of coastal waterbottoms and  
9 wetlands represents an insignificant impact to the public  
10 interest of coastal wetlands protection, nor is it a  
11 temporary impact.

12 The applicant and her agents, including legal  
13 counsel, have been notified numerous times to submit an  
14 after-the-fact application, but it was not submitted until  
15 after the Commission made their ruling and denied the  
16 applicant's petition request for an additional sixty days  
17 in which to submit said application.

18 To date, the bulkhead has not been brought into  
19 compliance and, as of yesterday, the fines have been paid,  
20 so that is one thing that has been done.

21 The matter is scheduled to be forwarded to the  
22 Attorney General's office for enforcement action, in  
23 accordance with the Commission's July 18<sup>th</sup>, 2017, ruling.

24 COMMISSIONER BOSARGE: Up there it says the  
25 fines have not been paid (indicating slide).

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1 You said the fines have been paid?  
 2 CHRIS PICKERING: Yes. They paid them  
 3 yesterday.  
 4 COMMISSIONER BOSARGE: I believe Mr. Richard  
 5 Shepler would like to speak on this issue.  
 6 MICHAEL YENTZEN: Actually, I would like to  
 7 speak, first.  
 8 COMMISSIONER BOSARGE: State your name.  
 9 MICHAEL YENTZEN: Michael Yentzen. I'm the  
 10 agent for the applicant.  
 11 I just want to clarify. I don't agree with this  
 12 assessment of what has happened.  
 13 First of all, I wasn't even notified about the  
 14 meeting, until yesterday. I didn't receive any written  
 15 notification of this meeting.  
 16 I'm not prepared for a full evidentiary hearing  
 17 today, but, just as a point of clarification, the last  
 18 time that I asked for reconsideration of the prior  
 19 decision, I wanted to clarify that we would be given an  
 20 opportunity to complete and submit an after-the-fact  
 21 application.  
 22 I was assured by the Commission, then, that that  
 23 was the intent of the ruling of the Commission, not  
 24 withstanding the formal letter of the Commission.  
 25 I indicated, at that point in time, that I felt

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1 like I had had the rug pulled out from under me by DMR  
 2 because I was told specifically by DMR that I should file  
 3 a Petition for Reconsideration so that we could clarify  
 4 that point.  
 5 The Commission ruled, at that point in time,  
 6 that we would be allowed to complete and submit an after-  
 7 the-fact application.  
 8 Well, DMR presents this today and says that that  
 9 was not the Commission ruling and that we were not given  
 10 the permission to complete and submit an after-the-fact  
 11 application.  
 12 I would just like to clarify that that is not  
 13 the case. It's not correct. That is completely untrue  
 14 and that is a mischaracterization of what actually  
 15 happened at the previous two meetings.  
 16 Furthermore, at the first meeting in July, I  
 17 tried to make our case and our argument that, I guess,  
 18 it's really not a permitting issue. It's a question of  
 19 whether these were tidelands to begin with and, also,  
 20 whether the DMR was negligent and actually approved the  
 21 permit drawing as completed.  
 22 Those are several issues that we could bring up,  
 23 if we proceed and take this to litigation.  
 24 There is no tideland survey that was performed.  
 25 We have demonstrated that, when the flagging was done and

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1 the pictures were taken, it was at a period where the  
 2 river was at a higher than normal stage.  
 3 Furthermore, basically, what we are arguing is  
 4 that the bulkhead that was constructed across the river  
 5 was done in late 2013. The one that was done upriver was  
 6 done in 2014. That created a situation where it  
 7 exacerbated the scouring of this area and you could see.  
 8 I submitted a packet of information at the July  
 9 meeting that shows that, until those bulkheads were  
 10 constructed, there was a beachfront that was several feet  
 11 beyond where the existing bulkhead was situated.  
 12 After the construction of that upriver bulkhead  
 13 and the across-the-river bulkhead, it created a situation  
 14 where it redirected the river flow and it created a  
 15 situation where it created an avulsion situation, not  
 16 erosion.  
 17 The State law is very clear on avulsion that  
 18 avulsion which is a rapid change scouring away of  
 19 material, or appreciative material, does not change the  
 20 property boundaries. It does not create tidelands.  
 21 That is our argument in a nutshell. This was  
 22 created in such a rapid fashion that it didn't change the  
 23 property boundaries.  
 24 It is very evident, if you look at the satellite  
 25 photographs that I provided in that packet and, also, some

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1 other information that was provided in the packet, along  
 2 with the case law, that the location of the bulkhead as  
 3 constructed should be allowed to stand.  
 4 I'm prepared to appear at the next Commission  
 5 meeting and do a complete evidentiary hearing. I can have  
 6 an expert witness testify. I can provide much more  
 7 documentation and much more case law.  
 8 Like I said, I wasn't even aware that we were on  
 9 the agenda for this meeting until yesterday because I  
 10 received no written notification of this.  
 11 Also, I was told yesterday by Chris that this  
 12 was just going to be a status update and, now, it seems  
 13 like this is going to be the end of discussion.  
 14 As I requested at the July meeting, I would like  
 15 the Commission to use their authority to allow the  
 16 bulkhead as constructed to stay where it was constructed.  
 17 Like the EA said, the Environment Assessment  
 18 that we prepared and submitted, we are not talking about  
 19 any significant amount of supposed, or alleged, tidelands.  
 20 There is nothing there. There was no vegetation that was  
 21 of any importance. There is nothing there.  
 22 I'm not sure exactly why this is such an  
 23 important issue, but it has become a big issue.  
 24 We were trying to work a resolution out with the  
 25 Department of Marine Resources, but really it has fallen

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1 on deaf ears.

2 COMMISSIONER BOSARGE: I'm just a concerned  
3 citizen here more or less, but it appears to me that it  
4 has been mostly that everything has fallen in the wrong  
5 order. When you first came, there should have been an  
6 after-the-fact permit applied for, at that time, so that  
7 you would have given us some power to maybe do something.

8 MICHAEL YENTZEN: Yes, sir.

9 COMMISSIONER BOSARGE: If your argument is that  
10 the land was scoured out and the bulkhead should have been  
11 moved out, that argument might should have been made prior  
12 to them flagging and telling you where it had to go.

13 Another point. This is not an action. This is  
14 strictly just an update. That's all this is.

15 MICHAEL YENTZEN: It didn't appear that way,  
16 from the presentation by Mr. Pickering. It sounded like  
17 this was going to be forwarded to the Attorney General's  
18 office, and, then, we would be going to litigation.

19 COMMISSIONER BOSARGE: I can't speak for these  
20 guys, but, as it has gone on and procedures have taken  
21 place, as they take place on all these issues, that is  
22 where it is headed and, hopefully, to somebody that is  
23 wearing a robe that can look at all your evidence and make  
24 a determination on who did what in the right order and who  
25 needs to do what and what can be retained and what can't.

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1 MICHAEL YENTZEN: I think the Commission is in a  
2 position to make that determination administratively, and  
3 I think there has been a lot of finger pointing, or  
4 basically in discussions with the Department of Marine  
5 Resources --

6 COMMISSIONER GOLLOTT: (Interposing) Excuse me,  
7 sir. I think the Commission has already made their  
8 decision on this, and I think you will have your chance to  
9 go to court with the Attorney General, and I don't think  
10 we want to address this any further.

11 Thank you very much.

12 MICHAEL YENTZEN: I'm very disappointed that you  
13 say that.

14 COMMISSIONER BOSARGE: Mr. Shepler would like to  
15 speak.

16 RICHARD SHEPLER: In view of Mr. Gollott's  
17 statement, you are telling me the Commission will not, or  
18 cannot, whichever term is legally applicable here --

19 COMMISSIONER GOLLOTT: (Interposing) Well, it's  
20 not an action item, so there is nothing we can do with it  
21 today, and it is already going to the Attorney General's  
22 office and, apparently, that's where you need to go to get  
23 all your problems solved because I don't think we can  
24 solve them.

25 RICHARD SHEPLER: Understood, and it's my

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1 contention that the Commission has been asked to rule on  
2 this, make a decision on this, from the beginning, with  
3 incomplete information.

4 I will accept responsibility. I have broad  
5 shoulders. Blame me, if you want. That's fine.

6 I'm not here to point blame, just get some  
7 things straightened out that I feel like the Commission  
8 has made a decision with a substantial amount of  
9 incomplete information.

10 As Mr. Yentzen eluded to, State law does allow  
11 for the reconstruction of property lost due to avulsion;  
12 not erosion, but avulsion. Erosion is a slow natural  
13 process. If Mother Nature decides to take your property,  
14 that's between you and Mother Nature, not the State of  
15 Mississippi.

16 The case law that he refers to, one of them that  
17 I read was the State Supreme Court overturned a Chancery  
18 Court ruling in favor of the landowner that was  
19 challenged, and the level of proof they required was  
20 clarification on those terms, avulsion, erosion and  
21 accretion in a legal sense.

22 This has been educational for me, as well,  
23 because, in a legal sense, I didn't understand the  
24 difference in erosion and avulsion, until this case.

25 They relied on one eye witness and one expert's

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1 testimony. Now, the Supreme Court overturned the lower  
2 court's ruling based on that level of proof.

3 We have at least two expert witnesses. We have  
4 an eye witness, a neighbor who watched this happen on more  
5 than one occasion.

6 The permit itself, the original permit, as a  
7 contractor, my single biggest complaint with how this has  
8 happened -- and this may, or may not, have much of a  
9 bearing here, but I believe it would for you and the  
10 department going forward with future permits -- I submit a  
11 drawing along with a permit application.

12 I am, in effect, entering into an agreement with  
13 the State of Mississippi. When you do that, you don't get  
14 to make changes to the drawing and not have the owner  
15 agree to those changes.

16 I submitted the drawing with the permit  
17 application. I get back in the mail, at some future point  
18 several weeks later, my drawing laminated to a permit card  
19 to go on my job site (indicating document).

20 Now, the only dimension mentioned in the actual  
21 permit, the yellow permit card is the hundred and twenty  
22 linear feet.

23 Mr. Pickering has mentioned this on at least two  
24 other occasions at previous meeting, the thirty-nine foot  
25 dimension which you may, or may not, recall.

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1 COMMISSIONER BOSARGE: I do.

2 RICHARD SHEPLER: I will be glad to let you see  
3 this to refresh your memory, if you want it, or if you  
4 have it in front of you. That is a rather obscure  
5 dimension stuck in the middle of the drawing right there  
6 that three construction professionals in a row missed, and  
7 that's why that process of approval, before permit  
8 issuance, is standard with every other permitting agency  
9 you will ever deal with (indicating document).

10 If I submit plans to build a house to the City  
11 of Biloxi, it goes to plan review. Plan review, if they  
12 make changes, they have a big red stamp they put right on  
13 it. It's called a table of revisions, and every revision  
14 is noted, and I have to agree to those revisions before a  
15 permit is issued.

16 In this case, I didn't get that. I got a yellow  
17 card and the very last statement on that yellow permit  
18 card in bold, for emphasis, reads:

19 "Furthermore, this project as proposed" -- now,  
20 I'm the proposer -- "has been found to be consistent with  
21 all guidelines for conduct of regulated activities in  
22 Coastal Wetlands as set forth in the Mississippi Coastal  
23 Program" (indicating document).

24 COMMISSIONER GOLLOTT: Let me explain myself.  
25 You've got a beautiful bulkhead there and I would love

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1 that. I think it is beyond our reach, now.

2 Let's ask our attorney because none of us are  
3 lawyers.

4 MICHAEL YENTZEN: Let me try to clarify this.  
5 From the July meeting, we had until yesterday to submit an  
6 after-the-fact application which we did timely, I might  
7 add.

8 The point of the last meeting in August was to  
9 get additional time and to clarify that we were allowed to  
10 submit an after-the-fact application, and the Commission  
11 denied that by ruling that the intent of the July ruling  
12 was to allow us to submit an after-the-fact application.

13 Right now, there is an after-the-fact  
14 application that was timely applied for and submitted, and  
15 I guess it is being summarily dismissed by the Commission.  
16 I don't know.

17 COMMISSIONER GOLLOTT: Let me say it again.  
18 Please let our attorney weigh in on this. She is the  
19 final say.

20 MICHAEL YENTZEN: Yes, sir, of course.

21 SANDY CHESTNUT: It is my understanding the  
22 Petition for Reconsideration requested sixty days to  
23 submit an after-the-fact application, and the Commission  
24 denied your Petition for Reconsideration at that meeting.

25 MICHAEL YENTZEN: They said, during the original

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1 meeting in July, that they had authorized us to submit an  
2 after-the-fact application.

3 SANDY CHESTNUT: You have been able to submit an  
4 after-the-fact application all along from the beginning.

5 MICHAEL YENTZEN: I know. We did, and we timely  
6 submitted it.

7 SANDY CHESTNUT: No.

8 MICHAEL YENTZEN: Yes.

9 SANDY CHESTNUT: You did not submit --

10 MICHAEL YENTZEN: (Interposing) Yes, we did.  
11 At the July meeting, we were allowed to submit an after-  
12 the-fact application.

13 COURT REPORTER: I cannot take down what is  
14 said, unless they speak one at a time.

15 COMMISSIONER BOSARGE: Let's calm down just a  
16 minute. Give Ms. Chestnut a chance to state her case,  
17 please.

18 COURT REPORTER: One at a time, please.

19 SANDY CHESTNUT: At the July meeting is when you  
20 filed the Petition for Reconsideration, or at the August  
21 meeting.

22 MICHAEL YENTZEN: That's when it was heard. We  
23 filed it based on the July meeting, but, if you go back to  
24 the July meeting, the discussion was that we were allowed  
25 to file an after-the-fact application from the July

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1 meeting until September the 18<sup>th</sup>, which we did.

2 SANDY CHESTNUT: Had you submitted the after-  
3 the-fact application prior to the Petition for  
4 Reconsideration that would have been considered.

5 You filed the Petition for Reconsideration. You  
6 asked for an additional sixty days to submit the after-  
7 the-fact application. The Commission denied that.

8 MICHAEL YENTZEN: The Commission denied that on  
9 the basis that the original meeting allowed us sixty days  
10 from the July meeting to file the after-the-fact  
11 application which we did file the after-the-fact  
12 application within sixty days from the July meeting.

13 That was the point, not to mention it was at the  
14 behest of the DMR because the DMR thought that the  
15 original letter wasn't clear that we were allowed the  
16 ability to file the after-the-fact application after the  
17 July meeting because it mentions nothing about that.

18 when we came back and asked for the Petition for  
19 Reconsideration, that was the whole point, in addition to  
20 establishing the fines were arbitrary and capricious, but  
21 the point was to clarify that we had time to submit an  
22 after-the-fact application.

23 Now, we weren't granted an additional sixty days  
24 from that August meeting, but we still had sixty days from  
25 the July meeting.

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1 This makes no sense whatsoever.  
 2 SANDY CHESTNUT: Mr. Yentzen, you guys could  
 3 have filed an after-the-fact application beginning in  
 4 June, when the violation was first brought forth.  
 5 MICHAEL YENTZEN: I understand that.  
 6 SANDY CHESTNUT: And that had been addressed  
 7 with you several times.  
 8 MICHAEL YENTZEN: It doesn't matter.  
 9 COMMISSIONER BOSARGE: It does.  
 10 MICHAEL YENTZEN: No, it doesn't.  
 11 COMMISSIONER BOSARGE: My point is procedurally  
 12 you have to --  
 13 MICHAEL YENTZEN: (Interposing) Believe me I'm  
 14 an attorney. I understand procedure, and I understand  
 15 what the discussion was at the July meeting. The  
 16 discussion was that we were allowed to file an after-the-  
 17 fact application sixty days from the July meeting.  
 18 The Petition for Reconsideration didn't change  
 19 that whatsoever, but, like I said, the letter from the DMR  
 20 wasn't clear, with respect to the ability to file the  
 21 after-the-fact application. That's why the Petition for  
 22 Reconsideration was filed at the request of the DMR.  
 23 COMMISSIONER BOSARGE: Let's back up just a  
 24 minute.  
 25 RICHARD SHEPLER: I have one question, if I

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1 might, just to clarify something, just to know  
 2 procedurally, and this is probably for Ms. Chestnut.  
 3 Information contained on the original permit, or  
 4 with regard to the original permit, it's my contention  
 5 that an after-the-fact application isn't even necessary  
 6 and never was.  
 7 My question would be procedurally, then, does  
 8 the same determination apply?  
 9 There is information, like I stated when I  
 10 started, that you don't have, or didn't have, or wasn't  
 11 presented in a way that really meant anything. The dots  
 12 weren't connected, if you will, and that all had to do,  
 13 from my standpoint as a contractor, with the original  
 14 permit.  
 15 COMMISSIONER BOSARGE: I agree. You make points  
 16 with the original permit. I understand that, but we don't  
 17 wear robes and I think that, if you want these questions  
 18 answered, you are going to have to go to a power higher  
 19 than us.  
 20 I hate to be rude, but that's where we are, and  
 21 we can argue this all day long, but we're not going to  
 22 make any headway because we are where we are procedurally,  
 23 and procedurally this is just an update. There is nothing  
 24 we can do for you.  
 25 It is going to the Secretary of State's office

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1 is where it's going, and that's where you guys need to  
 2 focus your attention.  
 3 RICHARD SHEPLER: From my standpoint as a  
 4 contractor, that is understood. Thank you, Mr. Chairman.  
 5 COMMISSIONER BOSARGE: Thank you.  
 6 SANDY CHESTNUT: I would like to say that an  
 7 after-the-fact application has been required all along  
 8 because the project was built out of compliance with where  
 9 the project was flagged, and the after-the-fact  
 10 application that was submitted cannot be granted because  
 11 you are asking for a general permit, and that cannot be  
 12 issued for this project.  
 13 MICHAEL YENTZEN: My --  
 14 SANDY CHESTNUT: (Interposing) Excuse me.  
 15 MICHAEL YENTZEN: I'm sorry.  
 16 SANDY CHESTNUT: You are also not requesting the  
 17 variances that would be required, and those have all been  
 18 explained to you. You have to request the variances. It  
 19 is not going fit in GP guidelines, and those haven't been  
 20 even addressed.  
 21 MICHAEL YENTZEN: Yes, it was addressed. The  
 22 Environmental Assessment and the after-the-fact permit  
 23 application is consistent with our legal argument. There  
 24 is no variance that is required.  
 25 I'm not sure if you are saying that we had the

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1 ability to submit an after-the-fact permit application,  
 2 but it was completely disregarded. Now, you are saying  
 3 that. I'm not sure if you are saying that.  
 4 Procedurally, there is nothing that was done  
 5 that was not proper procedurally.  
 6 If you want to read the record of the last  
 7 meeting on the Petition for Reconsideration, please read  
 8 the record because you read the record from the July  
 9 meeting that basically said that we were given the  
 10 authority to submit an after-the-fact application until  
 11 September the 18<sup>th</sup>.  
 12 I'm saying that this Commission has the  
 13 authority to consider the after-the-fact application,  
 14 notwithstanding what DMR's recommendation is.  
 15 If this is going to have to go to the Secretary  
 16 of State, or the Attorney General's office, then, we will  
 17 proceed that way, as well. That's fine.  
 18 COMMISSIONER BOSARGE: Both sides make good  
 19 points.  
 20 RICHARD SHEPLER: All I would like to say -- and  
 21 I don't know that this has any real bearing -- it's my  
 22 contention that there are no variances required, based on  
 23 the original permit.  
 24 The original permit clearly shows me connecting  
 25 the bulkhead on either side of this property point-to-

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1 point, corner-to-corner, and I would also just like to go  
2 on record as saying that both of those points that I  
3 connected with this bulkhead are previously established  
4 mean high water lines by the Department.

5 COMMISSIONER BOSARGE: That's why I say you need  
6 to take it to a level higher than us.

7 RICHARD SHEPLER: My apologies that I didn't  
8 stand up here at the first meeting and get this  
9 information to you in a way that you could disseminate it.

10 Procedurally, if that's where we have to go with  
11 it, then, that's where we have to go with it.

12 COMMISSIONER GOLLOTT: Basically, that's what we  
13 are trying to tell you. We --

14 RICHARD SHEPLER: (Interposing) I understand  
15 that, sir. I just wanted to make sure, and I wanted to be  
16 sure that the information that you needed was on record,  
17 if we have to refer back to it.

18 COMMISSIONER BOSARGE: You have a beautiful  
19 bulkhead and, for your sake, I hope that you will be able  
20 to keep it.

21 RICHARD SHEPLER: Well, that would make two of  
22 us.

23 COMMISSIONER BOSARGE: Thank you, sir.

24 RICHARD SHEPLER: Thank you.

25 SEAN MORRISON: My name is Sean Morrison,

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1 counsel for DMR.

2 I just wanted to clarify one thing. We have  
3 been talking a lot about this after-the-fact permit. The  
4 commission's decisions have not actually focused that much  
5 on the after-the-facts because, again, that could have  
6 been applied for at any point along this process.

7 What we are focusing on, in terms of status  
8 update today and whether, or not, it is in compliance has  
9 nothing to do with whether that permit was filed.

10 The ruling was that the fines be paid and that  
11 the project be brought back into compliance with the  
12 original permit which means taking that out and bringing  
13 the bulkhead back into the original permit. That is what  
14 has not been done today, and that's why we are starting to  
15 look at the Attorney General's office because it has to be  
16 brought back into that permit footprint.

17 COMMISSIONER GOLLOTT: I think we have beaten  
18 this horse to death.

19 SEAN MORRISON: I agree.

20 COMMISSIONER GOLLOTT: Let us move on. It's  
21 getting late.

22 COMMISSIONER BOSARGE: We understand your point.

23 MICHAEL YENTZEN: That wasn't the ruling. That  
24 wasn't the ruling, and that was clarified at the last  
25 meeting.

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1 If you look at the decision that was made in the  
2 July meeting, that was not the ruling. That was my point  
3 at the last meeting that the Commission allowed us to  
4 apply for an after-the-fact permit and, from the letter  
5 ruling that the DMR made, it didn't allow for that.

6 That was my point, but I was assured by the  
7 Commission at the August meeting that we would be allowed  
8 to apply for an after-the-fact permit, and, then, the  
9 Commission can listen to our arguments, our legal  
10 arguments.

11 I feel a little bit railroaded here and, from a  
12 procedural standpoint, there is no procedural missteps  
13 whatsoever. The procedure that the Commission has  
14 followed and was correctly followed.

15 In fact, I went overboard to follow it and to  
16 say that --

17 COMMISSIONER GOLLOTT: (Interposing) Sir, I  
18 will say it again, it's over. Thank you.

19 COMMISSIONER BOSARGE: We are going to move on.  
20 Next is Office of Finance and Administration, Kacey  
21 Williams.

22 KACEY WILLIAMS: Good morning everyone.

23 These are the financial results as of August  
24 31<sup>st</sup>, 2017.

25 At the end of August, we had three point two

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1 million in State Revenue. We had three point three  
2 million in Total Agency Revenue. We had two point two in  
3 State New Income. Our Total Agency Net Income was one  
4 point five million.

5 After two months of this fiscal year, we have  
6 ninety-three point eight percent of our Operating Funds  
7 Budget remaining, and ninety-eight point four percent of  
8 our Tidelands Funds Budget.

9 COMMISSIONER GOLLOTT: Kacey, are we in good  
10 shape?

11 KACEY WILLIAMS: Absolutely.

12 COMMISSIONER GOLLOTT: All right. Thank you.

13 KACEY WILLIAMS: Yes, sir.

14 COMMISSIONER BOSARGE: Now, Public Affairs,  
15 Melissa Scallan.

16 MELISSA SCALLAN: Good morning Commissioners,  
17 Director Miller, Ms. Chestnut.

18 The agency has been mentioned thirty-six times  
19 in local, state and national media since our last meeting.

20 Some of the items that got the most attention  
21 were the Alabama angler who caught a record-breaking shark  
22 at the Mississippi Deep Sea Fishing Rodeo, the end of the  
23 recreational Red Snapper season, the cultch planting on  
24 oyster reefs in the western portion of the Mississippi  
25 Sound, and the oyster aquaculture project near Deer

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1 Island.

2 Since the August Commission meeting, we  
3 participated in the Biloxi Seafood Festival which was a  
4 big hit. They moved it to the Town Green this year from  
5 The Point. There were lots of people there and we gave  
6 out lots of stuff, talked about rules and regulations and  
7 that kind of thing.

8 Marine Patrol was with us at the Biloxi Seafood  
9 Festival. They were a big help in answering questions.  
10 They also participated in a few events, the Night Out  
11 Against Crime in Bay St. Louis, Face Off at the Fort in  
12 Ocean Springs and the CCA Kids Fishing Rodeo at Point  
13 Cadet.

14 Marine Patrol also held a boat-and-water safety  
15 class in August and certified six students.

16 COMMISSIONER BOSARGE: Good deal.

17 MELISSA SCALLAN: Any questions?

18 (No response.)

19 COMMISSIONER BOSARGE: Thank you, Melissa.

20 MELISSA SCALLAN: Commissioner Havard, I did  
21 want to tell you that I will work with Joe Jewell's office  
22 and Chief Davis and we will work to get the word out to  
23 the northern parts of the State about Tails n' Scales and  
24 see if we can't improve that compliance number for the  
25 northern portions of the State.

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1 COMMISSIONER HAVARD: Thank you.

2 COMMISSIONER GOLLOTT: Mr. Chairman.

3 COMMISSIONER BOSARGE: Yes, sir.

4 COMMISSIONER GOLLOTT: I would like to make a  
5 motion that we go into closed session to determine the  
6 need to go into executive session to consider pending  
7 litigation.

8 COMMISSIONER BOSARGE: We have a motion.

9 Do we have a second?

10 COMMISSIONER HARMON: So seconded Mr. Chairman.

11 COMMISSIONER BOSARGE: We have a motion and a  
12 second.

13 All those in favor say aye.

14 (All in favor.)

15 COMMISSIONER BOSARGE: Opposed?

16 (None opposed.)

17 COMMISSIONER BOSARGE: Motion carries.

18 (whereupon, meeting stands in recess.)

19 COMMISSIONER BOSARGE: I would like to call this  
20 meeting back to order.

21 Ms. Chestnut, can you give us a report on our  
22 executive session?

23 SANDY CHESTNUT: Yes, sir.

24 At 11:56, a motion was made by Commissioner  
25 Gollott to go into closed session to discuss the need for

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1 executive session to discuss pending litigation. That  
2 motion was seconded by Commissioner Harmon.

3 At 12:02, a motion was made by Commissioner  
4 Gollott to go into executive session. That motion was  
5 seconded by Commissioner Harmon.

6 There were no motions made, during the executive  
7 session. At 12:19, Commissioner Havard made a motion to  
8 end executive session and go back into regular session.  
9 That motion was seconded by Commissioner Gollott.

10 COMMISSIONER BOSARGE: Thank you.

11 We will continue. Next is what is now K2 which  
12 is Petition for Reconsideration of Title 22 Part 1, Joe  
13 Jewell.

14 JOE JEWELL: Thank you Commissioners.

15 I will presenting Item F3, now K2.

16 I want to give an overview of the regulatory  
17 actions and procedural actions that have occurred in 2017,  
18 in relationship to his regulatory action.

19 In April of 2017, the Commission engaged in a  
20 Notice of Intent that was formally filed with the  
21 Secretary of State's Administrative Bulletin.

22 The Commission met at it's normal Commission  
23 meeting, on May the 16<sup>th</sup>, where Mr. Morgan Holder  
24 representing the Vietnamese coalition group submitted a  
25 Petition for Reconsideration.

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1 The Commission made three motions, at that May  
2 meeting.

3 One of the motions was to deny the Petition for  
4 Reconsideration as being prematurely filed.

5 The second motion the Commission made was to  
6 extend the public comment period and to conduct a public  
7 hearing.

8 The third motion was to identify matters in the  
9 public comments and for more information on the Economic  
10 Impact Statement and whether there is additional  
11 scientific information.

12 On June the 14<sup>th</sup>, a public hearing was held at  
13 Biloxi, Mississippi, in this room.

14 On June the 20<sup>th</sup>, at the CMR regular meeting, the  
15 Basket Dredge Ban, the final adoption was considered and  
16 tabled until the July meeting.

17 At the July 18<sup>th</sup> CMR meeting, the final adoption  
18 was voted on and passed and filed with the Secretary of  
19 State's office. The effective date of this final adoption  
20 was September the 1<sup>st</sup>, 2017.

21 On August 1<sup>st</sup>, 2017, Mr. Morgan Holder refiled  
22 the Petition for Reconsideration.

23 At the August 15<sup>th</sup> CMR meeting, the Commission  
24 went into executive session to give the DMR Executive  
25 Director the authority to enter into a settlement

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1 agreement. The Commission, then, reestablished the  
2 effective date of the regulation to October the 2<sup>nd</sup>.

3 Here we are at the September meeting.

4 The Commission has to now consider the Petition  
5 for Reconsideration.

6 This petition that was submitted on August the  
7 1<sup>st</sup> contained three primary requests of the Commission.

8 The petition petitioned the DMR and the CMR to  
9 consider and rescind Chapter 7, Section 102, of Title 22  
10 Part 1.

11 The three things that the petition requested the  
12 Commission to reconsider are as follows:

13 The prohibition on basket dredges is not  
14 supported by the best scientific information.

15 The Commission failed to consider the economic  
16 impact the rule would have on citizens and, thus, Chapter  
17 7, Section 102, Title 22 Part 1 must be reversed.

18 Chapter 7, Section 102, Title 22 Part 1 are  
19 arguably facially neutral. Its disparate impact against  
20 the Vietnamese-Americans violates the 14<sup>th</sup> Amendment to the  
21 United States Constitution, and, therefore, must be  
22 invalidated.

23 At this time, I would call Attorney Morgan  
24 Holder up to argue his Petition for Reconsideration, but  
25 it is my understanding that he had Court date today.

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1 Sandy, I'm not quite sure how to proceed with  
2 this with no legal representation for the Petition for  
3 Reconsideration.

4 SANDY CHESTNUT: His petition is in writing. If  
5 he had any further comments, he could make them if he were  
6 here. It's not required.

7 If there are any public comments that people are  
8 wanting to make, we can go ahead and take those.

9 JOE JEWELL: Okay. The next slide is simply I'm  
10 going to advise the Commission on the actions they can  
11 take.

12 COMMISSIONER BOSARGE: We will take public  
13 comments, and, then, we will let you advise us.

14 One young lady wants to speak, Ms. Thao Vu.

15 JOE JEWELL: Ms. Vu.

16 THAO VU: Good afternoon Director Miller and  
17 Commissioners.

18 I am Thao Vu with the Mississippi Coalition for  
19 Vietnamese-American Fisher Folks and Families. We are a  
20 community-based organization.

21 Please inform me if you have trouble hearing me.  
22 I have been sick with a cold, and I still have a sore  
23 throat.

24 First of all, I would like to state that our  
25 attorney, legal counsel, Mr. Morgan Holder, just as Mr.

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1 Jewell stated, he has court responsibilities that he could  
2 not get out of, and he will definitely follow up with the  
3 agency as soon as possible after court.

4 At the last Commission meeting last month, I  
5 wanted to speak about the safety-at-sea issue that I had  
6 raised before, and I actually have a photo that I am going  
7 to show everyone.

8 I don't know if Director Miller and the  
9 Commissioners can see. I will bring it closer.

10 Basically, this is a photo of a fisherman. He  
11 is not from here. Actually, I think it's the Chesapeake,  
12 or Virginia, area. He is using a bag dredge, and he has  
13 to stand on the boat, and it is a safety issue. It's not  
14 safe, especially in windy conditions and rough seas. This  
15 is what we are talking about, a safety-at-sea issue.

16 I found this photo to help illustrate how  
17 dangerous it could be. It is very difficult sometimes to  
18 convey it without a picture, and I think this picture  
19 helps illustrate that, and I want to reemphasize this is a  
20 major concern for our Vietnamese fishermen.

21 The other issue I want to raise is about the  
22 economic impact and the financial hardship that, if we  
23 have to use the bag dredge, the bag dredge requires a lot  
24 of maintenance. Those bag dredges are not very durable.  
25 If it sits out in the sun, it will become brittle, and,

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1 when they do harvesting, it is going to rip and the  
2 oysters are going to go right through it, and it is going  
3 to require extra costs to maintain.

4 We were informed that just the materials alone  
5 is at least three hundred dollars, not counting the labor  
6 because not many fishermen have the specialized skills to  
7 build, or construct, this bag dredge.

8 It is critically, critically important to our  
9 communities who have suffered so much, our fishing  
10 communities, and we were very, very, very disheartened to  
11 hear about the oyster season earlier that now is looking  
12 like a ten thousand sack year.

13 Translated into days, that is maybe a week's  
14 worth of work, one week. Even a part-time person works  
15 more. That is horrible.

16 Our fishermen are being displaced. It is not  
17 sustainable. We cannot have any more regulations that  
18 will further displace them. They are barely hanging on.

19 Think about it. Ten thousand sacks, that is at  
20 the most seven, or eight, days. That is if the weather  
21 cooperates with us. That's if. That is a major if  
22 because we have been having twenty-five to thirty thousand  
23 sacks the past several years, and that is maybe twenty, or  
24 twenty-one, days of work. My organization has been  
25 tracking all of this.

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1 Our community cannot take any more of this.  
 2 There is no robust science behind this, trying to ban  
 3 this. The economic impact will be great.  
 4 COMMISSIONER BOSARGE: Ms. Vu, your time has run  
 5 out. Thank you.  
 6 THAO VU: Thank you Commissioners for giving me  
 7 the opportunity to comment.  
 8 COMMISSIONER BOSARGE: That was the only person  
 9 who wanted to make a comment.  
 10 Continue on, Joe.  
 11 JOE JEWELL: Thank you Ms. Vu. Thank you  
 12 Commissioners.  
 13 Commissioners, you should be a little familiar  
 14 with this slide. I have presented it at least twice  
 15 before at previous meetings.  
 16 The Commission, according to Title 22 Part 15,  
 17 Chapter 3, Subsection 107.04, provides four action options  
 18 the Commission may engage in.  
 19 One, they can make a final disposition of the  
 20 Petition, by either granting, or denying, the requested  
 21 action without further argument.  
 22 Two, they can request a response from the MDMR  
 23 prior to making a final disposition.  
 24 Three, they can set the matter for an  
 25 evidentiary hearing.

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1 Four, they can make such further orders as it  
 2 deems appropriate under the circumstances.  
 3 COMMISSIONER GOLLOTT: Mr. Chairman, I would  
 4 like to make a motion.  
 5 COMMISSIONER BOSARGE: Yes, sir, Commission  
 6 Gollott.  
 7 COMMISSIONER GOLLOTT: I would like to use  
 8 Number One, final disposition, and deny the Petition for  
 9 Reconsideration and move forward with banning the dredge,  
 10 but I would like to direct the Department to look at the  
 11 possibility of funds and an exchange program to help these  
 12 basket dredgers convert their equipment to complying gear  
 13 to ease any financial burdens.  
 14 By, I think, providing the money to help them  
 15 with the dredges, that takes care of the financial end of  
 16 it.  
 17 As far as Ms. Vu's claims of being real  
 18 dangerous, I have dredged oysters myself on boats, and it  
 19 is not dangerous.  
 20 The picture she showed was a dredge coming up on  
 21 the side of the boat.  
 22 The dredge comes up on a table, or on the deck,  
 23 and the net goes down and you just grab the reigns and  
 24 empty the oysters, just to clarify that they are not  
 25 dangerous.

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1 There are Vietnamese people in Louisiana using  
 2 these dredges, now, and I understand there are a couple in  
 3 Mississippi. It is not beyond their capacity to do so.  
 4 I think for the resource, to make sure we are  
 5 not damaging the resource, what little resource we have,  
 6 we need to move forward with this.  
 7 COMMISSIONER BOSARGE: I think we probably need  
 8 to separate this into two motions.  
 9 Let's do the first part, and that will be your  
 10 motion to deny the Petition for Reconsideration.  
 11 COMMISSIONER GOLLOTT: That's correct.  
 12 COMMISSIONER BOSARGE: We have a motion.  
 13 Do we have a second?  
 14 COMMISSIONER TRAPANI: I'll second that.  
 15 COMMISSIONER BOSARGE: We have a motion and a  
 16 second.  
 17 Any further discussion?  
 18 (No response.)  
 19 COMMISSIONER BOSARGE: All those in favor say  
 20 aye.  
 21 (All in favor.)  
 22 COMMISSIONER BOSARGE: Opposed?  
 23 (None opposed.)  
 24 COMMISSIONER BOSARGE: Motion carries.  
 25 The second part of your motion, could you say

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1 that one more time?  
 2 SANDY CHESTNUT: Can I make a clarification  
 3 here, before you move on?  
 4 COMMISSIONER BOSARGE: Yes, ma'am.  
 5 SANDY CHESTNUT: Because the Petition for  
 6 Reconsideration was denied, that effectively means that  
 7 the regulation goes into effect October 2<sup>nd</sup>, like was voted  
 8 on at the last meeting. I just wanted to make that clear  
 9 for the record, that the regulation change will take  
 10 affect October 2<sup>nd</sup>.  
 11 JOE JEWELL: Can I interject, right here?  
 12 COMMISSIONER BOSARGE: Yes.  
 13 JOE JEWELL: It might be appropriate for the  
 14 Commission to take a reaffirmation vote for that October  
 15 2<sup>nd</sup> vote.  
 16 would that be appropriate?  
 17 SANDY CHESTNUT: You can.  
 18 JOE JEWELL: They have done that before.  
 19 SANDY CHESTNUT: It's not necessary, but, if you  
 20 want to go ahead and make that clear, you can.  
 21 The effect of denying the Petition for  
 22 Reconsideration --  
 23 JOE JEWELL: (Interposing) Makes the regulation  
 24 go into effect on October the 2<sup>nd</sup>.  
 25 SANDY CHESTNUT: Yes.

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1 COMMISSIONER BOSARGE: So we are okay with that,  
 2 Joe?  
 3 JOE JEWELL: Yes.  
 4 COMMISSIONER GOLLOTT: You want the second one,  
 5 now?  
 6 COMMISSIONER BOSARGE: Yes, sir.  
 7 COMMISSIONER GOLLOTT: I make the motion to get  
 8 the Department to do an exchange program to help the  
 9 basket dredgers convert their equipment to compliant gear  
 10 and to ease any financial burden.  
 11 COMMISSIONER BOSARGE: Do I have a second for  
 12 Commissioner Gollott's motion?  
 13 COMMISSIONER HARMON: So seconded, Mr. Chairman.  
 14 COMMISSIONER BOSARGE: Any further discussion?  
 15 (No response.)  
 16 COMMISSIONER BOSARGE: All those in favor say  
 17 aye.  
 18 (All in favor.)  
 19 COMMISSIONER BOSARGE: Opposed?  
 20 (None opposed.)  
 21 COMMISSIONER BOSARGE: Motion carries.  
 22 JOE JEWELL: That concludes Marine Fisheries.  
 23 COMMISSIONER BOSARGE: Thank you, Mr. Joe.  
 24 Do we have anybody else in the audience who  
 25 wants to make a public comment?

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1 (No response.)  
 2 COMMISSIONER BOSARGE: Seeing none, do we have a  
 3 motion to adjourn?  
 4 COMMISSIONER GOLLOTT: Mr. Chairman, I would  
 5 like to make a motion that this Commission adjourn.  
 6 COMMISSIONER BOSARGE: We have a motion.  
 7 Do we have a second?  
 8 COMMISSIONER HAVARD: I'll second it.  
 9 COMMISSIONER BOSARGE: All those in favor say  
 10 aye.  
 11 (All in favor.)  
 12 COMMISSIONER BOSARGE: Motion carries. The  
 13 meeting is adjourned.  
 14 (whereupon, at 12:40 o'clock, p.m., the  
 15 September 19, 2017, meeting of the Commission on Marine  
 16 Resources was concluded.)  
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C E R T I F I C A T E

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 2  
 3 I, Lucille Morgan, Certified Shorthand Reporter, do  
 4 hereby certify that the above and foregoing is a true and  
 5 correct transcript of the September 19, 2017, meeting of  
 6 the Commission on Marine Resources, as taken by me at the  
 7 time and place heretofore stated in pen shorthand, with  
 8 electronic verification, and later reduced to typewritten  
 9 form to the best of my skill and ability; and, further,  
 10 that I am not a relative, employee, or agent, of any of  
 11 the parties thereto, nor financially interested in the  
 12 cause.  
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